

## EIRO comparative study on 'Economically dependent workers'

This comparative study analyses the issue of 'economically dependent workers' and of the blurring boundaries between dependent and self-employment in the European Union and Norway. It presents some evidence on the diffusion and characteristics of employment relationships which may involve 'economically dependent workers' and provides an overview of the debate on the implications of these developments. The effects of the issue of 'economically dependent workers' on industrial relations, and notably on trade union representation and collective bargaining, are also discussed.

The concept of 'economically dependent workers' refers to those workers who do not correspond to the traditional definition of 'employee' - essentially because they do not have an employment contract as dependent employees - but who are economically dependent on a single employer for their source of income. The debate focuses on emerging employment arrangements which are 'mid-way' between self-employment and dependent employment. 'economically dependent workers' have some characteristics of both: 1) they are formally self-employed (they usually have a sort of 'service contract' with the employer); 2) they depend on one single employer for their income (or large part of it).

In some cases, 'economically dependent workers' may also be similar to employees from other points of view:

lack of a clear organisational separation - ie they work in the employer's premises and/or use employer's equipment;  
no clear distinction of task - ie they perform the same tasks as some of the existing employees, or tasks which were formerly carried out by employees and were later contracted out to 'collaborators'; and  
the 'service' they sell individually to employers falls outside the traditional scope of 'professional services' - ie the tasks are simple, do not require specific skills and no professional knowledge or competence is needed.

The existence of such employment arrangements has been highlighted by the International Labour Organisation (ILO) and is documented in a number of European countries, such as Italy, UK, Germany, Spain and Portugal. The issue was also mentioned in 2000 in the European Commission's first-stage consultation paper of the social partners on modernising employment relations ( EU0007259N).

The issue is relevant from the industrial relations' point of view since 'economically dependent workers' do not generally benefit from the protections granted to employees both by law and collective bargaining, including provisions on health and safety, information and consultation, working time, vocational training and social protection. They also fall outside the traditional reach of trade union representation.

The aims of this comparative study are to analyse:

the scope and relevance of the issue of 'economically dependent workers' in each country;

the emergence of demands for regulation of this kind of employment arrangement, as articulated in public debate;

where relevant, the ways in which 'economically dependent employment' has been regulated by law, or the contents of existing proposals in this field; and

the role of industrial relations, notably whether trade union representation and collective bargaining are being extended to 'economically dependent workers'.

This comparative study will outline and analyse the main issues raised by the emergence of forms of employment that may involve 'economically dependent workers'. For more a detailed description of the situations at national level, also in consideration of the complexity of the general topic, please refer to the individual national reports.

The definition of 'employee' and the relevance of economic dependence  
'Bogus self-employment' and new forms of work

A preliminary specification must be the distinction of two different issues which are often overlapping in practical terms, but which should be considered separately, in order to better appreciate the implications of the debate on 'economically dependent workers'. First, there are the employment relationships which can be regarded as 'bogus self-employment', ie subordinate employment relations which are disguised as autonomous work, usually for fiscal reasons, or in order to avoid the payment of social contributions and thereby reducing labour costs, or to circumvent labour legislation and protections, like the provisions on dismissals. Second, there are new forms of employment that are actually mid-way between dependent employment and self-employment and cannot be easily grouped with neither of the two, since they present some features of both. These are employment relationships which gained importance in the latest years, following the deregulation of labour

markets and the diffusion of reorganisation policies, which often included outsourcing of non-core activities and downsizing of the organisational structure.

The two aspects are strongly intertwined, not least because the emergence of the latter 'ambiguous' forms of employment makes the disguise of 'bogus self-employment' easier. However, the clear distinction between the two issues is underscored by the fact that the existing debate on 'economically dependent workers' is actually focusing on the 'economic dependence' which seems to characterise these workers. As we will see below, this is a criterion which cannot alone qualify an employment relationships as subordinate, at least in the traditional and current definition of the term. Subordination implies economic dependence, but the reverse is not always true. In this sense, the 'economic dependence' appears as a socially relevant criterion which raises the question of the protection of these workers, but cannot justify per se their assimilation to dependent employees. On the other hand, the issue of 'bogus self-employment' refers basically to the capacity of enforcing regulations on dependent employment and of detecting and sanctioning violations.

#### Subordination and economic dependence

The first thing which is important to point out is that, in all the countries covered by the study, the key element to define a dependent 'employee' is subordination. In fact, even if in practical terms there are several criteria which can be utilised to assess and qualify the employment relation, they are usually intended to appreciate the character of subordination.

Second, it is almost invariably 'legal subordination' which discriminate between different employment relationships, not economic dependence. Therefore, the basic criteria which identify the workers covered by this study may not be relevant as such for the definition of a subordinate employee. It is true that different aspects of economic dependence may be used by courts to appreciate the subordination of a worker, but it must be clear that economic dependence may characterise even contractual relations which corresponds unquestionably to self-employment (think, for example, of a lawyer with one main client). As already mentioned above, 'economic dependence' has essentially a social relevance and the increasing attention it is receiving by governments and unions should be connected to the perceived growing importance of new forms of employment which pose a threat to the traditional distinction between dependent and self-employment and ask for a different kind of regulation. In sum, it is exactly the fact that 'economic dependence' does not overlap

the traditional concept of subordination that makes the request for protection of 'economically dependent workers' an issue.

A further important aspect is that no degree of subordination is possible: an employment relationship is either subordinate or autonomous. This directly follows from the dichotomy 'dependent-autonomous', which does not leave room for intermediate situations. But, of course, this necessity to find a definite and unambiguous qualification of the employment relationship does not reduce the difficulty of the practical task, rather it increases it and forces to use different heuristic tools to qualify employment relations, especially in judicial cases discussed by labour courts.

Another element of complication, with regard to the qualification of employment relations, is the existence of different definitions for different domains: for instance, in France the definition of employee in labour law is different from that applicable for social security provisions.

Table 1. Definitions of 'dependent employment' in the European Union and Norway

Table 1. Definitions of 'dependent employment' in the European Union and Norway Country

Main legal criterion  
Specification

Austria

Subordination

Work to be performed personally, within the context of the employer's establishment, under the employer's supervision and managerial and disciplinary authority

Belgium

Subordination

Employer's right to direct work and to control the worker's performance

Denmark

Subordination

Employer's right to direct and control the work

Finland

Subordination

Employer's right to control the work

France

Subordination

Employer's authority to direct work and control worker's performance

Germany

Personal dependency

Dependence in terms of place of work, time of work, content of work; incorporation in the employer's organisation; use of employer's equipment

Greece

Personal subordination

Employer's right to direct work, determine place of work and working hours and control worker's performance

Ireland

No legal definition

A Code of Practice has been recently drawn up by an ad hoc tripartite Employment Status Group

Italy

Subordination

Work which takes place within the firm run by the employer, under the authority and the direction of the employer

Luxembourg

Subordination

Employer's right to direct work

Netherlands

Authoritative relationship

Employer's right to direct work

Norway

No definite legal specification: 'Performance of work in the service of another'

Indicators developed by case law (personal obligation, ownership of the equipment, employer's power to direct and control work, responsibility for the results)

Portugal

Subordination

Work which is performed under the authority and direction of the employer

Spain

Subordination

Subordinate work is: voluntary, dependent on the employer's authority, performed on the employer's account, salaried and personal

Sweden

???

???

United Kingdom

No statutory definition

Indicators developed by case law (control, integration in the business, economic reality, mutuality of obligation)

Source: EIRO

Nearly all the country reports stressed the difficulty to identify an unambiguous definition of dependent employment, both in theory and in practice. These difficulties have been tackled in different ways:

case law represents the standard response, urged by actual disputes that require a clear decision on the qualification of the employment relationship. Labour courts have developed in each country a set of criteria to support the final ruling.

A Code of Practice drawn up by an ad hoc tripartite committee has been utilised in Ireland to settle the issue of employment status.

Legislative intervention aimed, in certain countries, to reduce the ambiguity by introducing a presumption of subordination or by defining a set of mandatory criteria to be utilised in judgements.

In order to cope with the recent changes in the labour market and the economy, the introduction or formalisation of new types of employment relation aimed, in certain countries, to extend the protections granted to employees to these new forms of employment. Usually, only some protections are applicable to the workers involved, and this notably concerns social security provisions (health insurance, pension schemes, unemployment benefits).

The role of case law

Case law is important in all the countries covered by the study, but it is mostly relevant where a statutory definition of dependent employment is

not present (Ireland and United Kingdom) or where the legal definition is quite general and contains no cogent specifications (Norway). When disputes arise, labour courts have to use different criteria to overcome the abovementioned difficulties, which probably rose in recent years owing to the diversification of employment relationships and the diffusion of non-standard employment contracts, as the final ruling must qualify the employment relationship either as dependent or self-employment. These disputes typically involve formally self-employed workers who ask for recognition of their condition of dependent employees, in order to benefit of the protections granted to employees, but not to self-employed. One of the protections which are most frequently claimed is protection against dismissals.

It is important to highlight that the definition of the employment relationship stipulated in the original contract may not be relevant for the ruling, since labour law provisions are mandatory and apply to dependent employees, regardless of the original contractual form. Therefore, it is crucial to establish the `way` in which work takes place and the actual subordination of the worker. For instance, in UK the criteria developed by case law are based on four `tests` :

Control - who holds control over task, mode, means and timing?

Integration - how integral is the work to the business?

Economic Reality - where does the financial risk lie?

Mutuality of Obligation: what evidence is there of formal subordination to contract terms?

These criteria are designed to help assess the degree of dependence that characterises the employment relationship and they can be used at the discretion of the court. The British national report stresses that the outcome is often controversial and the tests can counter each other, leading to a high level of uncertainty. Similar situations are reported also for the other countries.

With regard to the criteria with an economic reference which were developed by case law, it is possible to say that they mainly concern economic risk. In fact, bearing the economic risk of an activity is considered as a constitutive feature of entrepreneurial activity and, therefore, of self-employment. Other indicators of economic dependence (the forms of payment, having only one principal, etc.) are, on the other hand, far less important among the current criteria utilised in the European Union and Norway to define employment relationships in judicial cases. In France, for example, case law originally regarded economic dependence as an integral part of the employment relation.

However, this attitude has been progressively eroded and substituted by a reference to the concept of legal subordination, ie the employee's subordination to the authority of the employer, who has the right to direct, supervise and control the work performed. As already pointed out, legal subordination represents the general criterion adopted in the overwhelming majority of the countries covered by the study.

An example of 'soft regulation' by social dialogue Ireland, as the other country which does not have a statutory definition of dependent employment, has followed a very interesting path to try to overcome the difficulties linked to the distinction between dependent and autonomous work, notably because it involved the social partners. In fact, a special tripartite Employment Status Group was set up in the framework of the Programme for Prosperity and Fairness to draft a Code of Practice on Employment Status. The Employment Status Group's members are representatives of the Irish Congress of Trade Unions (ICTU), the Irish Business and Employers Confederation (IBEC), the Departments of Social Welfare, Enterprise, Trade and Employment, Finance, and the Revenue Commissioners. According to the code of practice, an individual would normally be classified as an employee if he or she:

is under the control of another person who directs as to how, when and where the work is to be carried out.

Supplies labour only.

Receives a fixed hourly/weekly/monthly wage;

Cannot sub-contract work. If the work can be subcontracted and paid on by the person subcontracting the work, the employer/employee relationship may simply be transferred on.

Does not supply materials for the job.

Does not provide equipment other than the small tools of the trade. The provision of tools or equipment might not have a significant bearing on coming to a conclusion that employment status may be appropriate having regard to all the circumstances of a particular case.

Is not exposed to personal financial risk in carrying out work.

Does not assume any responsibility for investment and management in the business.

Does not have the opportunity to profit from sound management in the scheduling of engagements or in the performance of tasks arising from the engagements.

Works set hours or a given number of hours per week or month.

Works for one person or for one business.

Receives expense payments to cover subsistence and/or travel expenses.

Is entitled to extra pay or time off for overtime.

The consequences which follow from the determination of a person's employment status involve the ways in which tax and social contributions are payable, the entitlement to a number of social welfare benefits (employees will be entitled to unemployment, disability and invalidity benefits, whereas self-employed will not have these entitlements) and to other protections granted by labour legislation (an employee will have rights in respect of working hours, holidays, maternity/parental leave, protection from unfair dismissal, etc.).

The extension of labour protections by legislative intervention  
In other countries, specific legislative provisions have addressed the 'grey' area between dependent employment and self-employment. The most usual and traditional form of intervention is by the presumption of the existence of a legal subordination in case of certain formally autonomous employment relations, in order to protect some specific kinds of workers. In this way, the law itself recognises the difficulty of assessing subordination in employment relationships and therefore reverses the burden of proof (or even provides for a mandatory presumption of subordination), which usually lies on the (formally) self-employed worker.

This is the case of Austria, for instance, where a presumption of subordination is applicable in the case of sales representatives, pharmacists who work in dispensaries open to the public and sportspersons (for whom a mandatory presumption of subordination was established).

In France, a similar provision concerns professional journalists, artists and writers, as well as models and lumberjacks. Moreover, the Labour Code provides that certain categories of self-employed workers can be covered by the provisions applied to employees, if they sell goods provided exclusively (or almost exclusively) by a single company, or they collect orders or receive things to process, handle or transport on behalf of a single firm and they work in premises provided or approved by that company and according to criteria and at prices imposed by the aforementioned company. Recent case law applied these provisions to franchisees who work exclusively using or selling the items supplied by a single firm.

In Portugal, the law has introduced the notion of 'equivalent employment' which refers to formally autonomous employment relations which are considered to be close to subordinate work and therefore are believed to deserve the same protections. The two typical forms of

equivalent employment are homeworking and contractual relationships whereby the worker purchases the raw materials and supplies the seller of those raw materials with the end product for a certain price.

In Greece, employment relationships based on 'contracts for services' can be considered as possibly involving 'economically dependent workers', as they are mid-way between dependent employment and self-employment and they are not covered by labour legislation. The great majority of contracts for services concern homeworking. In 1998, owing to a remarkable increase in the diffusion of contracts for services, Article 1 of law 2639 on 'Regulation of Labour Relations, Establishment of a Labour Inspectorate and other provisions' ( GR9807181F, GR9808187N) provided for a presumption of subordinate employment in certain circumstances. These include the cases when the workers employed on a contract for services have only one (main) principal-employer, the cases of pieceworking and homeworking, as well as of telework. The Greek national report, however, stresses the difficulty in applying these new provisions, both for organisational problems of Labour Inspectorates and due to existing loopholes in the law.

In Germany, a recent legislative intervention, instead of providing for a presumption of subordination in certain circumstances, introduced a general assessment procedure to discriminate between employees and self-employed workers. In January 1999, the red-Green coalition government enacted the Act on the Advancement of Self-Employment (Gesetz zur Förderung der Selbständigkeit), which established a set of five criteria to qualify the employment relationships, with a person being considered to be an employee when at least three of them are present. The five criteria are:

the worker does not employ other employees who are subject to social security obligations.

The worker usually works for only one contractor.

The same job is also performed by regular employees.

Prior to this job he or she carried out the same work as an employee.

There are no signs of entrepreneurial activities (unternehmerisches Handeln).

It should be stressed, however, that these criteria concern the qualification of the employment relationship only for the purpose of social security schemes. A person who, according to these criteria, is considered an 'employee' will be covered by the social security system (health insurance, old-age pension, unemployment benefits), but will not be

necessarily entitled to the other protections granted to employees by labour law or collective agreements.

It is interesting to note that in all these cases, the rationale for legislative intervention can be found (also) in the protection of situations which can be regarded as `economically dependent`. The five criteria introduced in the German case, for instance, correspond almost completely to our definition of `economically dependent workers`. This fact confirms that, while `economic dependence` cannot be considered an essential element of subordination, it can be a proper reference for the extension of certain protections, and it was actually used for this purpose.

The introduction of new legal employment status mid-way between employees and self-employed workers

Another way to try to overcome the ambiguities connected to the qualification of certain employment relationships is establishing new legal forms of employment that corresponds to the `grey` area between dependent employment and self-employment. Since the main problems which affect this kind of work arrangements refer to the lack of a proper protection system, it is not surprising that the first interventions concerned the extension of social security coverage, and notably of pension coverage, to these workers. Another reason that encouraged these initiatives was, then, the need to increase social contributions to improve the budgetary sustainability of social security programmes by extending coverage to formerly excluded workers. It is important to stress that these new employment status usually belong to the formal category of self-employment and therefore benefit of certain specific protections and not of the extension of dependent employment's protections.

For instance, in Austria, the 1997 Labour Law and General Social Insurance Amendment Act (Arbeits- und Sozialrechts-Änderungsgesetz, ASRÄG 1997) extended social insurance coverage to all self-employed people and included for the first time the definition of `free-service contract`. This term had been formerly used only in practice and by labour courts and was eventually formalised by the 1997 law. These workers, who can be regarded as corresponding more or less to the definition of `economically dependent workers`, remain for all purposes (including social security coverage) under the scope of self-employment regulation.

Similarly in Italy, the pension system reform of 1995 included a norm which created a special and separate social security fund for some groups of workers, including those employed through `continuous and

coordinated contractual relationships' (also known as 'freelance work coordinated by an employer'), among whom are believed to be the great majority of Italian 'economically dependent workers'. One of the aims of this legislative intervention was to hinder the utilisation of this form of contractual relationships to circumvent the regulations on the payment of social security contributions for dependent employees and thereby reduce labour costs. Another important objective of the establishment of the fund was the acquisition of a new source of social security contributions to improve the financial sustainability of the public pension system. Since March 2000, workers employed through 'continuous and coordinated contractual relationships' are covered also by the compulsory insurance against accidents at work/industrial accidents and occupational illnesses administered by Inail. The coverage is mandatory provided the workers performs some specific tasks, notably those which involve the use of machinery or driving motor-vehicles.

#### Self-employment and 'economically dependent workers'

After a steady decrease in the importance of self-employment during the 1970s, the share of non-agriculture self-employment has increased in the majority of European countries since the early 1980s (see the 2000 OECD Employment Outlook for an analysis of this issue, in particular Chapter 5 'The partial renaissance of self-employment' <http://www.oecd.org/pdf/M00028000/M00028080.pdf>). Although the pace of this growth seems to have substantially slowed down at the turn of the century, and in some cases the trend has been reversed, self-employment remains an important element of employment creation and levels, especially in certain countries. As far as this EIRO study is concerned, it is important to notice that, owing to its formal definition, an increase in the diffusion of 'economically dependent workers' could be reflected by a rise in self-employed workers. In fact, some of the national reports suggest that a significant share of the recent increase in self-employment could be linked to the diffusion of 'economically dependent work' (for instance, those for Belgium and Spain), in connection with reorganisation, downsizing and outsourcing processes.

The point is that data on 'economically dependent workers' are available only in those limited cases where a formal or legal definition corresponds, more or less, to what we defined as 'economically dependent workers'. Therefore, we will first briefly analyse data on self-employment in general and then illustrate the few cases for which we have more accurate data.

As we can see from both Table 1 and Figure 1, the situation in the different countries is quite varied. First of all, the level of self-employment ranges from less than 5% in Norway to more than 25% in Greece. Second, the share of self-employment on total employment increased in the latest twenty years in many countries, and especially in Sweden (where it grew almost two-fold), United Kingdom, Finland, Germany, Ireland and Italy. However, in some countries it decreased, even to a great extent. These countries include Luxembourg, France, Norway, Denmark, Greece (which formerly had almost one third of all labour force in self-employment) and Austria. Third, as already mentioned, in the nineties the increase in self-employment has significantly slowed down in the relevant countries: in UK and Ireland it even turned into a net decrease in its weigh. But there are two exceptions: in the Netherlands and Austria, the increase actually started or gained momentum later, in the late 1980s or in the early 1990s.

If we look at the data on the presence of women in self-employment, we can discover some other peculiarities. First of all, women remain significantly under-represented in self-employment, as they represent, on average, less than a third of all self employed workers and reach a top 35% in the Netherlands. However, in as much as 10 countries out of 16, the share of women on self-employment has increased in the latest years. And this is often true even where the relevance of self-employment on total employment diminished, as in the cases of Greece, Ireland, Norway and UK. The opposite happened in Finland and especially in Germany, where the presence of women decreased in a situation of growing self-employment.

Of course, these data do not say much on the specific topic of our study, as we are not in a position to distinguish and separate traditional forms of self-employment, new forms of genuine autonomous work and what we called 'economically dependent work', or work which lays mid-way between dependent and self-employment. However, the latest aggregate data suggest that self-employment does not seem to be eroding the centrality of dependent employment (rather the opposite in recent times).

Table 2. Self-employment in the European Union and Norway (% of non-agriculture civil employment) Country

1980

1990

1995

1996

1997  
1998  
1999  
2000  
1980/ 2000 (2)

Austria

8.81  
6.62  
7.19  
6.89  
7.05  
7.37  
7.44  
-  
-1.37

Belgium

11.27  
12.93  
13.87  
14.04  
14.07  
13.84  
-  
-  
2.58

Denmark (1)

8.25  
7.19  
6.85  
7.11  
6.71  
6.95  
7.16  
6.61  
-1.64

Finland

6.04  
9.29  
10.16

10.26  
10.00  
10.00  
9.85  
9.71  
3.67

France

10.71  
9.32  
8.58  
8.48  
8.36  
8.28  
8.18  
8.06  
-2.65

Germany

6.98  
8.52  
8.72  
8.99  
9.25  
9.36  
9.22  
9.22  
2.24

Greece

30.90  
27.39  
27.74  
27.49  
26.99  
26.54  
25.66  
25.87  
-5.03

Ireland

10.30  
13.16

13.52  
12.85  
12.96  
13.50  
12.79  
12.86  
2.56

Italy

19.20  
22.24  
23.12  
23.35  
23.21  
23.25  
23.38  
23.21  
4.01

Luxembourg

9.19  
7.12  
6.08  
6.01  
5.92  
5.75  
5.62  
-  
-3.57

Netherlands

9.06  
7.84  
9.63  
9.77  
9.99  
9.68  
9.25  
-  
0.20

Norway

6.53

6.12  
5.87  
5.46  
5.28  
5.25  
5.07  
4.83  
-1.69

Portugal

14.90  
16.73  
19.26  
19.69  
18.98  
18.30  
17.56  
16.75  
1.85

Spain

16.26  
17.14  
18.62  
18.49  
18.12  
17.61  
16.69  
16.02  
-0.24

Sweden

4.51  
7.26  
9.27  
9.12  
9.05  
9.00  
9.03  
8.86  
4.36

United Kingdom

7.11  
12.41  
12.19  
11.87  
11.83  
11.49  
11.15  
10.83  
3.72

EU15+Norway

10.87  
12.64  
12.78  
12.82  
12.78  
12.68  
12.43  
12.54  
1.63

Source: EIRO calculations on OECD Labour Force Data (non-agriculture civil employment), <http://www.oecd.org/>

(1)1981 instead of 1980 (2) If 2000 data were not available, the most recent data was used.

Figure 1. Percentage of self-employment in 2000 out of total non-agriculture civil employment and changes on 1980 and 1990

Source: EIRO calculations on OECD Labour Force Data

Instead of 1980, 1981 was used for Denmark; Instead of 2000, 1999 was used for Austria Luxembourg and the Netherlands and 1998 for Belgium.

Table 3. Self-employed women in the European Union and Norway (% of total self-employment) Country

1990  
1995  
2000

Austria

-

28.09

28.85

Belgium

28.57

29.34

29.16

Denmark

-

25.00

25.00

Finland

32.23

30.77

32.11

France

34.80

31.31

29.20

Germany

29.89

27.92

28.42

Greece

18.58

19.69

23.71

Ireland

18.38

20.22

21.50

Italy

23.39

23.12  
24.65

Luxembourg

-  
-  
-

Netherlands

-  
32.49  
34.55

Norway

28.07  
29.82  
31.73

Portugal

34.14  
34.52  
34.03

Spain

25.51  
27.77  
28.01

Sweden

26.20  
26.82  
26.67

United Kingdom

24.59  
24.51  
27.54

EU15+Norway

24.06  
26.15  
27.23

Source: EIRO calculations on OECD Labour Force Data (non-agriculture civil employment), <http://www.oecd.org/>

Figure 2. Changes in the percentage of women on total self-employment and of self-employment on total employment (1990/2000)

Source: EIRO calculations on OECD Labour Force Data

For certain countries, the comparison on both indicators was made for different years, depending on available data: Austria 1996/1999; Belgium 1990/1998; Denmark 1995/2000; Netherlands 1995/1999; Portugal 1992/2000; Luxembourg: missing data on self-employed women.

‘Economically dependent workers’

As we have already pointed out, it is very difficult to find data on ‘economically dependent workers’, since there is no precise and accepted definition of such an employment condition, not to mention legal recognition. Rather, this label refers to a general situation of dependence which is considered, on different grounds, as deserving protection similar to that granted to employees. Therefore, it was possible to collect data on ‘economically dependent workers’ only for those countries where specific legal employment forms correspond, more or less, to this situation of dependence (Austria, Greece, Italy, and Portugal). Alternatively, in some countries specific researches have been carried out on these employment arrangements and it is possible to give some indications on the extension of ‘economically dependent work’ (Denmark, Germany, and the Netherlands).

It must be pointed out, however, that ‘economically dependent workers’ do not represent a homogeneous group. As they occupy the (broadening) blurred boundary between dependent employees and self-employed workers, which was identified by the majority of the national reports by the various forms of freelance work, we can find people who are closer to one of the two ends of this continuum. Since data do not refer to a unique category, but to different and country-specific definitions, we can use them essentially as indicators of relevance and trends and not to make cross-country comparisons.

Table 4. Legal employment forms which may include 'economically dependent' work Country

## Legal forms

### Definition

#### Austria

Free-service contract (freier Dienstvertrag) and work contract

(Werkvertrag)

Freelance contractual relationships

#### Greece

Contracts for services

Under the category of 'contracts for services' fall both work contracts and contracts for independent services

#### Italy

Continuous and coordinated contractual relationships (Collaborazioni coordinate e continuative)

Contractual relationships which involve the performance of activities in favour of a principal, in the framework of a unitary and continuous relation, without subordination or the utilisation of organised means, and in exchange of a periodical and pre-determined compensation. These activities must not be provided as part of professional services

#### Portugal

Contracts for services on 'green receipts'

Independent form of contract of employment . Green is the colour of the receipt that this type of independent workers must fill in and deliver to the enterprises they provide services to

Source: EIRO

Table 5. Employment relationships that may involve 'Economically dependent workers' (2000) Country

Number (thousands)

Women (% of total EDW)

% of self-employment\*

% of total employment\*

Austria (1)

37.3

45.5

14.35

1.07

Denmark

23.0

31.0

12.43

0.89

Germany

-

-

-

0.57\*\*

Greece

32.8

-

3.91

1.00

Italy

1,272.0

39.3

28.11

6.57

Netherlands

100.0

-

14.64

1.35

Portugal

35.8

-

4.88

0.86

Source: EIRO

\* Civil non-agriculture employment as for OECD Labour Force Data

\*\* Percentage reported from a research by the Institut für Arbeitsmarkt und Berufsforschung quoted in the German national report

(1) Percentage are calculated on 1999 data (latest available)

Table 4 shows some data which are quite fragmentary and heterogeneous and need to be treated with extreme caution. In general, however, it is possible to say that existing evidence seems to support the view that the kinds of employment arrangements which are usually referred to as 'economically dependent work' involve a share of the workforce which is around 1%.

The comparatively very high level reported for Italy should be considered in terms of the nature of the data source: 1.3 million people are the contributors in 2000 to the special social security fund established by the abovementioned pension system reform of 1995. But the definition of 'continuous and coordinated contractual relationships' includes so different situations as: a) membership in the boards of firms, associations or other bodies, including supervisory board members and auditors; b) participation in committees and commissions; c) collaborations with newspapers, magazines, encyclopaedias and the like; d) other contractual relationships which involve the performance of activities in favour of a principal, in the framework of a unitary and continuous relation, without subordination or the utilisation of organised means, and in exchange of a periodical and pre-determined compensation. Owing to heterogeneity of contributors, their weigh on total employment should be regarded as somehow overestimated (for instance, members of boards account for almost 40% of all contributors). Besides, the fact that a person contributes to the fund does not mean that the relative contractual relationship represent his or her sole or prevalent source of income. There might be cases where the contributor's main occupation is actually a standard form of self- or dependent employment (or the contributor might be a pensioner).

Some words of warning may be useful also for other country data. The data on Denmark come from a government study on atypical employment published in January 2002. The target group of this study may be considered 'economically dependent workers' in a very broad sense, as they depend on their contractual relationships with their principals (but this generally applies to any kind of work). Moreover, they receive quite a high salary (EUR 4,000 per month), have, on average, specific professional skills and voluntarily decided to take on freelance positions. It must be said, however, that trade unions do not agree completely with

this picture. In particular, the Union of Commercial and Clerical Employees in Denmark (Handels- og Kontorfunktionærernes Forbund, HK) believes that the number of workers who receive a salary below the collectively-agreed rates is not marginal and increasing. For instance, a trade unions study issued in 2000 by LO estimated the amount of 'economically dependent workers' in 102,000, or around 4% of the total workforce.

Some indications on the growth of these kinds of employment may also be drawn from available data. In Austria and Greece, 'economically dependent work' seems to have been growing at a quite high rate. The number of free-service contracts and work contracts increased by more than 60% in Austria between 1998 and 2000 (an upward trend that we found also for total self-employment). In Greece, the contracts for services grew by almost 40% between 1999 and 2000. A rise of 14% was recorded in Portugal between July 2000 and July 2001, as far as contracts for services on 'green receipts' are concerned. In Italy, after a strong increase in the first two years of operation, the number of contributors to the special social security fund for continuous and coordinated contractual relationships remained more or less stable in 1999 compared to 1998 (+0.5%). Also in Denmark, the government study on atypical workers indicates that this group seems to be stable, with the exception of certain areas: ITC, interpreting/translating, and book-keeping.

#### Sectors, activities and conditions of work

As far as the sectors and the types of activity involved by forms of employment that may be regarded as 'economically dependent work' are concerned, the national reports indicated a wide array of situations. These range from employment relationships and activities which traditionally belong to the area of outsourcing (such as homeworking in the clothing industry), to occupations which are connected to the more recent experiences of reorganisation and contracting-out (like maintenance work); from activities which typically show a high rate of freelance employment (for instance, collaborations to newspapers and magazines), to new and emerging occupations (like ITC workers).

This variety of situation implies a corresponding heterogeneity as regards such important factors as the characterisation as 'bogus self-employment' or new forms of employment, voluntariness of the decision to take on a self-employment position, the level of income, the skill and education levels, and the conditions of work. The common-sense image of an 'economically dependent worker' would require him or her to be involuntarily self-employed, with a medium-low income and a relatively

low skill endowment. However, this is not the picture which always emerges from the study. In some cases, the choice of working on a freelance basis seem to be to a large extent voluntary and the level of income satisfactory. Of course, we have to keep in mind that official data are missing and therefore it was necessary to base our study on scattered and sometime anecdotal evidence. In general, in fact, we have to say that we know very little about 'economically dependent workers' and that there is an evident 'information gap' to be filled on the diffusion and characteristics of these workers, which adds to the abovementioned difficulties in finding a clearcut definition. For instance, in several country reports, the sectoral distribution of 'economically dependent workers' was simply assumed on the basis of the distribution of self-employment.

Table 6. Activities and sectors where 'economically dependent work' may be more widespread Country

Activities

Sectors

Austria

Journalists, scientific researchers, lorry drivers, ITC workers

Media, road haulage, scientific research, ITC

Belgium

Cooks, drivers, shop assistants, cleaners, attendants and security guards, secretarial staff

Hotels and catering, cleaning and caretaking, secretarial services

Denmark

R&D, administration and account-keeping, interpreting, journalistic jobs, education, sales, technical jobs (photography, sound editing), project and consultancy work, creative jobs (illustration, manuscript writing, film production etc.), and ITC jobs

Media, publishing, education, ITC

Finland

Translators, psychologists, speech therapists, consultants, construction workers

Construction, services, and metal sector

France

Construction workers, lorry drivers, private service workers, estate salespersons

Construction and public works, road haulage, metalworking (car industry), private services (express courier, security, cleaning, training and education, hotels and catering), estate agencies, retail and commerce, agriculture

#### Germany

-

Retail, meat processing, transportation, and private services such as nursing and teaching

#### Greece

Homeworkers

Clothing and leatherwear, manufacturing of costume jewellery, rubber and plastic items, and toys

#### Ireland

-

-

#### Italy

Door-to-door sales; training and education; administrative and accounting services; marketing, telemarketing, advertising; collaboration to newspapers, magazines, etc.; fashion, art, sports and show business; healthcare, technical assistance

Retail and commerce, private services, media, healthcare

#### Luxembourg

-

-

#### Netherlands

Artists, reporters, construction workers

Media, construction, business services

#### Norway

Lorry drivers

Road transport

#### Portugal

-

-

#### Spain

-  
Construction, hotels and catering, road transport, computer activities, and health and social services

Sweden

-  
-

United Kingdom

-  
Construction, transport and communications, finance and Business, and distribution, hotels and catering. media, entertainment

Source: EIRO

The regulation by law of 'economically dependent work'  
Since 'economically dependent work' is not recognised as such by the legal systems of the countries covered by this study, it is not possible to speak of any specific regulation. The only instances of regulation by law we can refer to are the already mentioned interventions on the 'grey' area between dependent and autonomous work we illustrated above. These legislative provisions either introduce a presumption of subordination for certain categories of workers (Austria, France, Greece and Portugal) or extend some specific protections (typically social security coverage, including sometimes health and safety provisions) to certain forms of self-employment (Austria, Germany and Italy) formerly devoid of them. In absence of specific interventions on this grey area, the provisions for self-employed workers are generally applicable to the workers who are regarded as being 'economically dependent'. Depending on the features of the national welfare state system, these workers may well be covered by the same social security protections available to employees (as it happens in Sweden). Otherwise, they are usually outside the scope of labour law protections (like the rules on dismissals) and of collective bargaining coverage, and they are subject to different fiscal and tax regulations.

The debate on 'economically dependent workers' and the positions of the social partners

The issue of 'economically dependent workers' is widely debated in several European countries, despite all the uncertainties, or maybe just because of them, which involve both the definition and the actual diffusion of these employment relationships. The recent transformations in the labour market and the effects of industrial change have, in fact, fuelled a debate on the perceived crisis of the traditional dichotomy dependent-autonomous work which would question the existing regulatory framework and highlight possible shortcomings in the current labour protections. Moreover, a demand for the protection of 'economically dependent workers' seems to be particularly present where these new forms of employment involve former employees, who are now doing the same job as self-employed (a cited example is that of lorry drivers), or extend their reach to sectors where the presence of subordinate employment was practically exclusive or largely predominant. These two situations, which are usually and to a large extent coupled, may arise as a consequence of reorganisation, downsizing and outsourcing processes.

There are only a few countries where the issues raised by 'economically dependent workers' are not perceived as problematic in the public debate. In Luxembourg, the problem is actually non-existent, while in France there is no debate at present on 'economically dependent workers' and their status.

In Sweden, the extensive coverage of the welfare system considerably reduces the potential impact, in terms of workers' protection, of the diffusion of new forms of employment, including the very high increase in self-employment which almost doubled in the latest 20 years. Nonetheless, even in Sweden the government launched a study in July 2000 to examine the possibility to change some aspects of labour regulation to support job security, in the light of changes in the economy and the labour market, and notably the rise of atypical work and self-employment.

Also in other countries, the issue of a possible revision of the definition of dependent employment was raised and addressed by the government. In Belgium, the former Minister of Labour, Miet Smet, asked the University of Antwerp to carry out a study particularly focused on 'bogus self-employment', with a view to finding a better definition of the link of subordination. The current Minister of Labour, Laurette Onkelinx, has given the matter further consideration, and hopes to present a draft law that will aim to define the link of authority more accurately. In UK, an important recognition of the current debate on the definition of

‘employee’ came by the inclusion in the Employment Relations Act 1999 (ERA) of a provision (Section 23) which empowers the Secretary of State to confer some or all employment rights to categories of individuals who do not or cannot presently benefit from them. In yet other countries, the issue was addressed through the involvement of the social partners. We already discussed the example of Ireland, where the tripartite Employment Status Group, set up in the framework of the Programme for Prosperity and Fairness, drafted a code of practice to help distinguish between self- and dependent employment. In Denmark, a similar initiative was developed with the support of the government, which, in 2000, formed a workgroup with the social partners to discuss the problems and consequences that the emergence of a ‘third group’ of workers between employees and self-employed might have for labour legislation. The government report on atypical work which was released in January 2002 (see above) is a result of this joint effort.

In the Netherlands, the debate focuses on social protection for self-employed without employees and on the establishment of a new definition for dependent employment. The most controversial aspect of this debate is the extension of social security coverage to self-employed workers, as employees seem to oppose such a step on grounds that it would be unfair. At the same time, self-employed workers contrast this proposals because they feel this would restrict their freedom in managing their business.

In Italy the situation is quite peculiar, owing to the wide diffusion of the phenomenon of ‘continuous and coordinated contractual relationships’, which was made evident by the establishment of the special social security fund in the second half on the 1990s. The debate is quite lively and there are even draft bills which aim at introducing further regulations of ‘continuous and coordinated contractual relationships’. For instance, the proxy law on labour market reform which was presented by the government and is at the centre of a strong confrontation with the unions includes some provisions on these employment relationships. Among other things, the bill section on ‘continuous and coordinated contractual relationships’ envisages the introduction, also by collective agreements, of fundamental protections as far as the workers' dignity and security are concerned, and forms of ‘certification’ of the employment relationship, in order to avoid disputes over its qualification (eg as dependent or autonomous work). Another draft bill presented by the centre-left opposition proposes a stricter regulation of this form of employment, including the extension of some worker and trade union rights included in the Workers' statute.

In certain countries (such as Austria, Finland, Germany, Ireland, Italy, Portugal and Spain), the unions are asking for a redefinition of the boundaries between dependent employment and self-employment, in order to provide more protections to workers that they regard as 'economically dependent'. Actually, the unions changed to some extent their positions on atypical work in the latest years. While they still consider the standard forms of dependent work as the most appropriate way to create employment and provide protections to workers, they recognise the role of new and atypical forms of employment, provided they are implemented in a clear regulatory framework that includes, at least, a set of basic rights. For instance, in Austria, trade unions have for a long time opposed atypical employment, such as work contracts and free-service contracts, since they believe that these forms of employment can undermine the system of labour protection and social security. However, in recent times the unions have recognised that it is not possible to contrast the changes in the labour market and are now supporting the introduction of some sort of framework regulation on pay and working conditions also for these kinds of workers.

As far as employers' associations are concerned, they are generally in favour of the diffusion of more flexible forms of employment (particularly as autonomous work), which they do not regard as 'economically dependent', but rather as an expression of genuine entrepreneurial activity. In their view, new forms of self-employment match the needs of both companies and workers for more flexible conditions of work and individual entrepreneurship. Therefore, employers' associations usually oppose interventions that would extend to these forms of employment regulations or protections which are typical of dependent employment, as they believe that this would impose negative constraints on free economic activity. On the other hand, they support the implementation of a proper system of social security protection that is line with the general provisions for self-employment.

The impact of 'economically dependent work' on industrial relations  
In certain countries, the pressure exercised by the growth of new forms of employment which may involve 'economically dependent workers' had an impact on the industrial relation system and led to changes on either the structure of representation or the content of collective bargaining, or on both. However, there are also examples of countries where despite the existence of a debate on 'economically dependent workers' or on the

blurring distinction between dependent and self-employment, no significant developments were registered, as far as industrial relations are concerned. This is the case, for instance, of Belgium.

Before going into the details of the impacts on industrial relations, a preliminary issue must be raised, since in some cases the development of industrial relations, and notably of collective bargaining, with regard to formally self-employed workers might be in contrast with existing competition law. In fact, collective agreements which bind formally self-employed workers, who are entrepreneurs, may well be considered as anti-competition practices and unlawful. This problem was reported in particular in the cases of Finland and Ireland. Even if this possible constraint seems so far to be more of a theoretical nature, a major consequence of this situation was reported for Ireland. The National Newspapers Association of Ireland (NNAI), representing newspaper employers outside Dublin, decided to withdraw from a pay rates agreement it had with the National Union of Journalists (NUJ), a union which represents freelance photographers and journalists. The NNAI said that the fixing of minimum rates for freelance workers could be regarded as an anti-competition practice and, fearing heavy fines from the Competition Authority, it pulled out of the deal. As it can be understood easily, these facts may put a strong and actual constraint on trade union action in Ireland in the area of 'economically dependent work', should a legal clarification on this point not be put forward.

#### Trade union representation

As far as the impact on representation is concerned, we can distinguish between two situations. The first refers to the inclusion of 'economically dependent workers' in existing trade unions and the second concerns the creation of ad hoc organisations. A variant of the first situation are unions that traditionally represent freelance workers and simply continue to do so, maybe in presence of an increasing number of potential self-employed members (Table 7). This generally applies to the unions of journalists and media workers and sometimes, of lorry drivers. In Germany, for instance, the Unified Service Sector Union (Vereinigte Dienstleistungsgewerkschaft, ver.di) has many freelance workers among its members, since one of the unions which eventually merged to create ver.di in 2001 (DE0104220F), the Media Trade Union (IG Medien), had formerly succeeded in organising some 10,000 freelancers (freie Mitarbeiter). Ver.di is now trying to strengthen this representation through an initiative called connexx-project, which is aimed at both employees and self-employed workers.

More interesting are the cases when the unions decide to extend their representation to new groups of workers; a choice which may be controversial for many reasons. In the Netherlands, for example, one of the main trade unions decided not to extend its representation to self-employed workers (with no employees), while the other major union confederation (FNV) opted to do it and founded a new union especially devoted to self-employed workers without employees. Moreover, independent unions for self-employed workers without employees were set up. Other examples of the establishment of new union organisations on an occupational basis (ie that organise only 'economically dependent workers' regardless of the industry they work in), as opposed to sectoral organisations, can be found in Italy and Spain.

In Italy, special structures have been set up in 1998 within the three main trade union confederations to deal with the difficulties in representing and protecting atypical workers, including workers on 'continuous and coordinated contractual relationships'. Cgil and Cisl have established, respectively, New Work Identities (Nuove Identità di Lavoro, Cgil-Nidil) and the Atypical and Temporary Agency Workers' Association (Associazione Lavoratori Atipici e Interinali, Alai-Cisl), while Uil has brought atypical forms of work within the remit of its Committees for Employment (Comitati per l'occupazione, Cpo), originally set up to represent unemployed people and those working in 'socially useful jobs' (IT9807327F). In 2000, the total number of members of Nidil-Cgil were 9,064, and 45% of them were freelance workers coordinated by an employer. Alai had 11,195 member in 2000.

In Spain, in 2000, a specific union for 'economically dependent workers' was set up within the Trade Union Confederation of Workers' Commissions (CCOO) of Catalonia. The new union is the Autonomous and Dependents Workers' Federation (Federación de Trabajadores Autonomos Dependientes, TRADE, <http://www.conc.es/trade/>).

In Denmark, the HK union, which covers the sectors where freelancers are mostly present (administration, IT, interpreting, publishing and services), founded in 2001 a special section for freelance workers (HK Freelancer, <http://www.freelancer.dk/>) which has at present 650 members. In Austria, the Union of Salaried Employees (Gewerkschaft der Privatangestellten, GPA) recently launched an initiative (work@flex) for persons working under a free service contract or work contract.

It is important to note that the heterogeneity of these kinds of workers, together with the possible difficulties in establishing proper collective

bargaining, can make more difficult for trade unions to recruit members. Therefore, the provision of selective incentives such as insurance coverage, assistance in individual disputes and other forms of advice can be particularly crucial to sustain membership. Examples of such incentives can be found in Austria with the GPA's work@flex initiative, where the union offers to members an insurance to cover the events of illness and the relative loss of earnings; in Denmark, where HK Freelancer provides information, advice, and legal and administrative support, as well as a web-based job bank; in Germany, where the former IG Medien provided freelance workers with special training and advice; in the Netherlands, as the unions are trying to attract self-employed workers also by offering insurance coverage and legal advice; in Norway, with an initiative of the Finance Sector Union targeted at young workers, including self-employed consultants, which offers among other things fiscal and legal advice.

### Collective bargaining

Another constitutive element of industrial relations is collective bargaining. In this area, the developments are even less pronounced than in the domain of representation. In fact, union representation of new forms of employment, which may include 'economically dependent workers', is often quite recent. Of course, this is not true for the more traditional forms of representation of specific categories of self-employed or freelance workers, such as journalists. However, experiences of collective bargaining which cover to a significant extent 'economically dependent workers' are reported only in a handful of countries. Austria, Italy, Norway, Spain and the UK. Probably, this indication understates to some extent the actual coverage of collective bargaining as it contrasts remarkably with the diffusion of the representation of self-employed workers, which was reported also in Denmark, Finland, France, Germany, Ireland, and the Netherlands.

In any case, the most common situation is that existing collective agreements extend their scope to cover also self-employed or freelance workers (see Table 7). This can happen at national level (like in the case of the latest national agreement for journalists in Austria, or of the forestry agreement in Norway) or at company-level (like in the UK, especially in the media and entertainment sectors).

The only reported examples of collective agreements which cover exclusively 'economically dependent workers' can be found in Italy. In fact, in Italy, collective bargaining has led to a series of important agreements on workers with 'continuous and coordinated contractual

relationships' ( IT0011273F). The signatories to these agreements, together with the unions, are both public bodies and private firms. Many of the latter operate in the area of new technologies (call centres, web contact centres, etc) or commercial services (for which they hire promoters and merchandisers, for example), and they seek high flexibility in their use of the workforce.

An important recent agreement has been signed between Nidil, Alai, Cpo and the Arci non-profit association, which has some 5,500 local structures throughout Italy (signed on 10 October 2001). This framework agreement could be applied to around 3,300 freelance 'coordinated' workers. Other notable agreements include those signed: at Mibi, a company which operates web contact centres (signed on 23 October 2000 in Catania by Nidil, Alai and Cpo, and also by the Ugl-terziario union); at Answer, a company operating web contact centres and commercial promotion services (signed on 30 March 2000); and at Telco, which runs call centres and delivers outsourced services (18 November 1999). Although the contents of these agreements differ considerably, they have a number of features in common. In particular, they usually include: a) the granting of a series of trade union rights to workers on freelance 'coordinated' contracts (association, membership, assembly, election of representatives); b) a commitment to apply the rules on workplace health and safety to collaborators as well; c) the provision of training; d) the suspension of the contract in the case of illness, accident or maternity (sometime with a specific allowance); e) a period of rest for collaborators on contracts of more than a certain minimum duration; and f) the payment of an end-of-service allowance.

Table 7. 'Economically dependent workers': representation and collective bargaining Country

Representation

Collective bargaining

Austria

GPA recently launched an initiative in favour of workers on free-service contracts or work contracts (work@flex)

The June 1999 collective agreement for journalists covers freelance journalists who work on a regular basis

Belgium

None

None

## Denmark

HK set up a specific union for freelance workers (HK Freelancer); some are members of the Danish Journalists' Union

None

## Finland

Some are members of existing confederations (AKAVA, SAK)

None

## France

Some are members of existing sectoral or occupational unions (lorry drivers, sales representatives, models, journalists and lumberjacks)

None

## Germany

The Unified Service Sector Union (ver.di) has launched the connexx-project to attract workers in the media sector, including freelance workers

None

## Greece

None

None

## Ireland

Some of them are member of existing sectoral or occupational unions (National Union of Journalists, Communication Workers Union)

None

## Italy

The three main trade union confederation Cgil, Cisl and Uil founded specific structures devoted to freelance workers coordinated by an employer (Alai, Cpo, Nidil)

Specific company-level agreements on freelance workers coordinated by an employer; the 2001 agreement for journalists includes some rules on freelance 'coordinated' workers

## Luxembourg

None

None

## Netherlands

FNV founded a union for self-employed workers without employees; FNV Construction has a section for self-employed workers without

employees; there are independent unions for self-employed workers without employees

None

Norway

Many are members of existing sectoral or occupational unions (journalists, artists, drivers). The Finance Sector Union started a web-based unit to attract young workers, including self-employed consultants

The agreement for the forestry sector covers also self-employed workers; the agreements for a couple of major TV stations cover also freelance workers; there are also agreements that regulate wages and working conditions of freelance actors

Portugal

None

None

Spain

The Trade Union Confederation of Workers' Commissions (CCOO) of Catalonia created the Autonomous and Dependents Workers' Federation (TRADE)

No specific agreements. The latest agreement for road transport recognises the presence of this kind workers, though it introduces no specific protections or regulations

Sweden

None

None

United Kingdom

Some existing unions represent also freelance workers (such as the Union of Construction, Allied Trades and Technicians, UCATT; the Broadcasting, Entertainment, Cinematograph and Theatre Union, BECTU; Equity; and the National Union of Journalists, NUJ

Some single employer collective agreements cover also freelance workers

Source: EIRO

Finally, we can just recall the experiences of social dialogue which were developed in Ireland and Denmark in the framework of the debate over the challenges posed to the traditional distinction between dependent and

autonomous work by the emerging forms of employment relationship (see above).

#### Comment

The first element which emerges from this study on 'economically dependent workers' is the great variety of situations, both across countries and within individual countries. The main features of employment relationships that may include 'economically dependent work', as well as the types of workers involved, are often specific to the national context. However, a significant heterogeneity may also be present at national level. In the blurring boundaries between dependent and self-employment, we can find a full range of job positions, going from actual 'bogus self-employment' which conceals dependent work and usually concerns a low-skilled, less expensive and less protected labour force, to emerging jobs in the ITC or consultancy sectors which generally involve well-educated and well-paid autonomous workers. Besides, according to existing evidence, which is actually very little and fragmented, the phenomenon seems to concern, on average, around 1% of total employment.

In essence, the debate over 'economically dependent workers' represents basically an aspect of the crisis of the standard distinction between dependent and autonomous work and clearly signals the difficulties to tackle the changes in the labour market and the economy with the traditional tools of labour law (and industrial relations). In other words, it voices an emerging demand for regulation and protection which comes from the grey area between dependent and self-employment. An area which has apparently been growing in the latest decades, even if this increase showed a significant slow down in the most recent years.

This rising demand for regulation and protection requires, first of all, a statutory response, which should provide a clarification of the broadening meanings and forms of employment. Such response may also pass through social dialogue and the involvement of social partners, on a pathway which has been to some extent followed in Ireland and Denmark. In any case, the options on the floor in this domain are apparently three:

an extension of (most of) the provisions and protections typical of dependent employment to new forms of employment, including self-employed workers who may be regarded as 'economically dependent'.

This is the option generally favoured by the unions which believe this would be the best way to grant workers an appropriate endowment of rights and protection. However, since it may lead to a reduction in the actual differences across forms of employment, this approach might contrast with the European objectives for adaptability and the support of entrepreneurial activity.

The definition of a third intermediate status which would stand mid-way between dependent and autonomous work and would benefit of a comparatively intermediate level of regulation and protections. In this case, the main problem seems to be connected with the identification of the features which would characterise this status. As already mentioned, there is such a variety of employment relations and job positions that it would be very difficult to find a clearcut and satisfactory definition, even more so if this attempt would be undertaken at European level.

The establishment of a common set of basic rights and protections that would apply to all the workers, irrespective of their formal employment relationships (in addition to the existing regulatory framework for dependent employees). This is an option which is being discussed in Italy in the framework of the proposal to define a so-called work statute (IT9709310F) and which is also implicitly supported in UK by the suggestion to use the term 'worker' instead of 'employee' in legislation establishing labour rights and protections (it has been estimated that this might protect up to a further 5% of all those in employment). Here, the difficulty lies mainly in the definition of the set of rights which should be extended to all workers. In an extreme interpretation, in fact, this approach would simply overlap the first option.

In any case, while the question of a whole protection system waits to be addressed, there have already been significant steps in granting some essential coverage to these kinds of workers, notably in the areas of social security and health and safety regulations.

But there is a second and important response which the abovementioned demand for protection (and representation) is urging: that of industrial relations and notably of trade unions. The growth in non-standard forms of employment, among which 'economically dependent work' may be classified, is challenging the representation and regulation capacity of the unions in the labour market. However, the example of 'economically dependent workers' shows that the unions, in order to cope with these new demands for representation and protection, are effectively trying to extend their reach beyond the limits of standard employment and to recruit members among self-employed and different kinds of freelance workers. In this, they are proving to be able to follow innovative strategies, using an original combination of incentives which come from

the early tradition of the trade union movement (like the provision of social security coverage and of some sorts of placement support - as 'job banks'), new services (different forms of professional advice), and new tools (especially the internet). If they are successful in this organising effort, probably further developments will follow in the area of collective bargaining, as the cases of Italy and UK seem to suggest.

Eventually, the combined effect of the possible changes in the statutory framework and in industrial relations may have an important impact on the work and life prospects of many self-employed workers, including 'economically dependent workers'. (Roberto Pedersini, Fondazione Regionale Pietro Seveso).

About this record

Commission consults social partners on modernisation of work  
Bill on regulation of labour relations  
Industrial relations bill passed  
Unified Service Sector Union (ver.di) created  
Trade unions seek to represent workers in new forms of employment  
Moves to regulate freelance coordinated work through law and bargaining  
Proposals for a new Jobs Statute

