



ESPN Thematic Report on Access to social protection of people working as self-employed or on non-standard contracts

Serbia

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Abbreviations

ALMP	Active Labour Market Policies
FSA	Financial Social Assistance
HIF	Health Insurance Fund
LC	Local Communities
ILO	International Labour Organisation
LFS	Labour Force Survey
MoLEVSP	Ministry of Labour, Employment, Veterans and Social Policy
NES	National Employment Service
NSP	<i>Novcana Socijalna Pomoc</i> (Financial Social Assistance)
PIO Fund	Pension and Invalidation Insurance Fund
RSD	R. Serbia Dinar
RSO	Republic Statistics Office
SILC	Survey on living and income conditions
SIPRU	Social inclusion and poverty reduction unit

Summary

The share of self-employed workers or those with non-standard contracts is estimated at 10.4% of all those formally employed; however, the exact figures are not available, due to methodological differences in data collection and publishing. Self-employed entrepreneurs have a significant role in the country's economy; in 2013 their unincorporated enterprises constituted 70% of all active enterprises¹, and hence they are a valuable asset in the Serbian economy. The number of unincorporated enterprises grew slowly from 2008 till 2015; at the same time the number of employed people decreased. The government has been orientated towards fostering this type of business: 2016 was designated as the 'Year of entrepreneurship', while regular active labour market policies have been orientated towards fostering self-employment through subventions and technical assistance, along with favourable start-up credits approved by the National Development Agency.

The social status of the self-employed can be assessed from SILC data; however, as these data also include informally self-employed people and farmers, the true picture is distorted. In 2015 the at-risk-of-poverty rate for self-employed people was 37.3%, 11.9 points above the national average rate; this was the second highest rate by labour market status, behind the rate of 46.2% recorded for unemployed people.

Access to social protection of the observed population differs in relation varies according to the type of benefit, rather than according to employment status. That is, self-employed people and those in non-standard employment have the same access to non-contributory social protection benefits (family benefits and social protection assistance) as those in standard employment.

Serbia has compulsory social insurance schemes which are obligatory for all employees and workers with contracts. Self-employed people have the same rights and obligations as workers in standard employment. All workers in non-standard employment have almost the same status regarding social insurance schemes as standard employees. The only exception is in respect of workers with project- or task-based contracts, who do not have access to unemployment benefits, maternity/paternity leave and sick-leave benefits. New forms of employment associated with the 'gig' economy are less prevalent in Serbia than in other Member States and there is almost no information on the social protection of these workers. The main current shortcoming concerns the regulation of employment agencies, which have been present in Serbia since 2009: the government is currently drafting a law which will regulate their work in accordance with the adopted international Conventions.

Overall it can be concluded that there is no need for the extension of social protection benefits; but it is necessary to ensure that all workers and employers/contractors are aware of their obligations and rights, and that they comply with them.

The compulsory social insurance system is universal, securing coverage of the whole population. However, current legislation is not well designed to prevent abuse of the schemes. Abuse is present mainly in the form of evasion of regular payments, and some secondary legislation even accepts this practice. As a consequence, the Health Insurance Fund and Pension and Invalidity Fund have high deficits, while the quality of healthcare is decreasing. Since the onset of the economic crisis the government has been more orientated towards fostering employment and regulating the informal economy, and less towards modernizing the social protection schemes. In the last four years all relevant compulsory social insurance acts have been amended several times, but only in order to resolve ongoing issues rather than introduce long-term reform.

It is important for the authorities to initiate modernization of the compulsory insurance schemes, within the resources available for social protection, prioritizing the adequate

¹ RS Ministry of Economy, The report on SME and entrepreneurs 2013

coverage of the most vulnerable people. The authorities should be made more aware of the new forms of employment that are becoming dominant in the more developed economies, even though these forms are not yet widespread in the country. The appropriate strategies to respond to these trends should be mainstreamed in the preparation of new legislation. For this reason it is also necessary to adequately update official statistics and to conduct research and analysis as a source of relevant information to be used in decision-making processes.

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

The true extent and incidence of self-employment and non-standard work is not known, due to different methodologies used by the institutions which collect and publish data on employment and non-standard work. The relevant data are available from three sources: (1) the Republic Statistical Office (hereafter the RSO) publishes data from the Labour Force Survey (hereafter LFS), data on unincorporated enterprises² (sole proprietorships and partnerships) and, starting recently, data on registered employment³; (2) the Republic Pension and Invalidity Fund (hereafter the PIO Fund) publishes data on the number of PIO Fund insurers; and (3) the Health Insurance Fund (hereafter the HIF) publishes data on the number of insured people. The data from the LFS cover formal and informal employment, and for this reason differ from the other official data, due to the high rate of informal employment in Serbia; in 2016 (3rd quarter) this rate was 24.1%. LFS data do not disaggregate self-employment and non-standard work by economy sector, i.e. the figures also include self-employed people in primary occupations (agriculture, fishing).

Full-time indefinite work⁴ has hitherto been the standard type of employment in Serbia, with 89.1% of workers employed under this category in 2009⁵. Amendments to the Labour Law in 2011 have influenced the increase of non-standard employment, by extending the maximum duration of fixed-term contracts from 12 months to 24 months. Subsequently, the number of workers with fixed-term employment increased; in 2009 their share in total employment was 8%, rising to 12.4% in 2013 and 16.8% in 2015⁶. Part-time employment is less prevalent, and its share did not change much, remaining in the range 9.7%-10.5%, during the observed period. The share of standard employment is still by far the largest, but has been decreasing; it fell by 11 percentage points between 2009 and 2015.

Observing the trends in the incidence of self-employment since 2008, a significant impact arising from the economic crisis is evident, with negative trends in the number of unincorporated enterprises and in their realized turnover (see Annex 2, Figure 1 and Table 1). Even though the number of unincorporated enterprises grew slowly from 2008 till 2015, the number of employed people has been decreasing.

Estimates from the LFS for 2015 show that, out of the total number of employed persons, 19.3% were self-employed⁷ and 77.1% male employees. Of the total number of self-employed, 77% were formally employed (with farmers included).

In 2015 the at-risk-of-poverty rate for self-employed people was 37.3%, 11.9 points above the national average rate; this was the second highest rate by labour market

² The survey involves unincorporated enterprises i.e. sole proprietorships and partnerships: it is based on tax administration records and the data available from the Serbian Business Registers Agency.

³ Data from the Central Register of Compulsory Social Insurance

⁴ International Labour Office – *Non-standard employment around the world: Understanding challenges, shaping prospects* Geneva: ILO. 2016

⁵ RSO, LFS 2009, Announcement No,155, 2009

⁶ RSO, LFS 2009, 2013, 2015

⁷ Farmers and fishermen included.

status, behind the rate of 46.2% recorded for unemployed people. In 2014⁸ it had been even higher, at 38.4%, which was 12.8 points more than the national average rate. The greater exposure of self-employed people to the risk of poverty is correlated with their relatively high participation in the informal economy: 33.1% of the informally employed were self-employed in 2015⁹ (unpaid family workers were not included). The other causes of their potential vulnerability relate to the occupational profile of self-employment; that is, the majority of them are engaged in low-paying jobs, including basic manual labour, craft-based jobs and agriculture (see Annex 2, Figure 2). Other indicators related to their risk of social exclusion could be derived from SILC data, but are not published.

The National Employment Service (hereafter the NES) is the major institution responsible for fostering self-employment, through active labour market programmes (hereafter ALMP) in accordance with the annual National Employment Action Plan (hereafter the NEAP). In 2015 the NES implemented programmes aimed at improving entrepreneurship skills, and programmes providing incentives for business start-ups for self-employed people (Table 2). Overall coverage of the ALMP was low compared with the number of registered unemployed people; however the realized coverage was defined in the NEAP adopted for 2015.

Table 1. Realized ALMP for self-employment in 2015

	ALMP	Measure	The realized coverage
1.	Entrepreneurship development		
1.1.	Counselling and information	Services delivered in business centres	2.7% of all registered unemployed: 19,456 people
1.2.	Mentorship and special training for new entrepreneurs	Support for the first year in business	624 companies
2.	Incentives for business start-ups		
2.1.	Education	Two-day programme "Road to the successful entrepreneur"	1.7% of all registered unemployed: 12,029 people
2.2.	Subventions for self-employment	Grants: EUR 1,640 for people with disabilities, and EUR 1,300 for others. Conditional on beneficiaries remaining formally self-employed for at least two years.	0.5% of all registered unemployed: 3,803 people
2.3.	"Pay-off" of the remaining unemployment benefits	Pay-off of the remaining instalments of unemployment benefits, for the purpose of self-employment	0.4% of all registered unemployed: 231 people

Source: The National Employment Service, report on implemented activities in 2015, 2016

The 2017 NEAP defines the same ALMP designed to promote self-employment, with subventions in the range from EUR 1,470 to EUR 1,860, and with a proposed coverage of 3,570 people – which is lower than in 2015, and somewhat higher than in 2016 (3,510). The other form of support for entrepreneurs is administered by the National Development Fund, which approves business credits to legal and natural persons under favourable conditions¹⁰. This Fund was the main vehicle for implementing programmes in 2016, which was designated as the 'Year of entrepreneurship'. Some of the available start-up

⁸ RSO, SILC 2014, Announcement, no. 083, 2015

⁹ RSO, LFS 2015, Bulletin 608, 2016

¹⁰ Start-up loans are approved for a 5-year period, with the loan rate in the range 1.5%-3%, and a one-year grace period

programmes were especially designed for young people, women, social enterprises and IT businesses. The start-up credits had a relatively small share, compared with other types of credit (investment credits for legal and natural persons): in the last six months of 2016, approved start-up credits (for legal and natural persons) constituted 13% of the total value of approved credits, while the share of these credits for natural persons was around 25%¹¹.

In order to improve the status of workers in non-standard employment, the Ministry of Labour, Employment, Veterans and Social Policy (hereafter the MoLEVSP) plans to introduce two amendments regarding the regulation of non-standard work. The first amendment concerns seasonal work in agriculture, which has been mainly performed within the informal labour market¹². The announced amendment will introduce a category of temporary seasonal employment with vouchers. Estimates are that this measure will bring around 300,000 seasonal workers under the formal employment scheme, and thereby the coverage of social insurance contributions. The second amendment will regulate the work of employment agencies; their operations are presently regulated only in relation to the technical condition of premises and the qualifications required of staff¹³. There are 74 officially registered employment agencies in Serbia. From the NES report on the activities of registered employment agencies¹⁴ (submitted by around half of all agencies), in the first half of 2015, on average, total monthly applications were: 86,616 by unemployed people and 42,084 by employed people who were interested in new employment. In the same period these agencies employed 50,102 people. The ongoing debate initiated by NGOs and trade unions points to a number of unresolved regulation gaps which discriminate against people employed by the agencies¹⁵. The proposed amendment will introduce strict compliance with international Conventions and Directives regarding rights at work, which employment agencies will have to follow¹⁶.

2 Description and assessment of social protection provisions for the self-employed and people employed on non-standard contracts

2.1 Description of social protection provisions for the self-employed and people employed on non-standard contracts

The Labour Law¹⁷ defines all forms of employment relationships and other legal forms of work arrangement. This law makes a clear distinction between an employee and a worker who is considered to be outside the scope of employment. An employment relationship is established by signing the employment contract between the employee and the employer. The status of an employee can include standard employment, as defined by the International Labour Organisation, but also two non-standard forms of employment: fixed-term work and part-time work. Two forms of temporary employment, which fall within the category of casual work, are considered to be outside the scope of employment: (1) short-term temporary work for periods not longer than 120 days in a calendar year, and (2) work carried out under a project- or task-based contract. Temporary agency work (employment agency) is regulated under a separate law and is discussed in sub-chapter 2.2. The Labour Law outlines the obligations and rights which arise from the employment relationship (paid holidays, sick leave, maternity/paternity

¹¹ <http://www.fondzarazvoj.gov.rs/>

¹² <http://www.minrzs.gov.rs/cir/aktuelno/item/6930-uskoro-zakon-o-sezonskom-radu-u-poljoprivredi>

¹³ RS Official Gazette 36/2009, 88/2010 law on employment and unemployment insurance, Official Gazette 65/2014, Regulations on premises and technical conditions for employment agencies' operations and on the qualifications of employed staff and on the form of exams for performing work in an employment agency.

¹⁴ Source: National Employment Service, Report on implemented activities in 2015, 2016

¹⁵ Share Foundation, International Centre Olof Palme 'Workers on leasing' (in Serbian), Belgrade, March 2016

¹⁶ Assessed at <http://paragrafco.co.rs/dnevne-vesti/170316/170316-vest13.html>, on November, 16th 2016.

¹⁷ RS Official Gazette 75/2014

leave, collective bargaining, etc.); on the other hand entitlement to these rights for workers outside the employment relationship is not regulated, but is subject to the contract agreement.

The law on private entrepreneurs (Law on Personal Work)¹⁸ defines self-employees as: “natural persons, who, for the purpose of gainful activity, establish a shop and carry out the business activities under their own account”, and “for the purpose of pursuing the business the entrepreneur (a shop founder, i.e. sole trader) establishes a shop, that is appropriate for the business (workshop, office, agency, studio, pharmacy, or similar)”. Self-employed people may declare themselves as salaried employees at the central register of social insurance¹⁹, or exercise the option to collect income from the registered business and pay personal income taxes. Farmers and fishermen, as well as artists and priests, are also considered to be self-employed (if not employed otherwise).

The social protection system in Serbia includes the compulsory social insurance scheme, family support system and social assistance system. Compulsory social insurance contributions²⁰ comprise monthly payments for: (1) pension and invalidity insurance, with a 26% contribution rate; (2) healthcare insurance, 10% rate; and (3) unemployment insurance, 1.5% rate. The defined contribution rates are the same for all insured people. The statutory obligation to pay social insurance contributions includes all employees, self-employed people and other persons in legal working arrangements, comprising both standard and non-standard employment. Consequently, all persons who pay social insurance contributions are entitled to the same rights regarding social insurance benefits.

Payment of compulsory social insurance contributions by self-employed entrepreneurs depends on the choice of income declaration. Salaried self-employed people pay contributions on their declared salary. Where an entrepreneur is not a salaried employee, two options are defined for the base for calculating contributions: (1) taxable income, or (2) lump-sum taxable income²¹. The second option is allowed for professions which, due to the nature of their work, cannot keep regular books, and whose total turnover in the previous year did not exceed EUR 48,780²². This option covers a wide range of professionals: plumbers, taxi-drivers, hairdressers, car repair servicemen, lawyers, dentists, priests, etc. The calculation of the lump-sum income tax base is regulated under a special Act²³ and its rather complex formulas are given in Annex 2, Box 1.

The base for social insurance contribution payments for farmers and self-employed artists is set at the minimum level²⁴: the law allows local government bodies to pay contributions on behalf of self-employed artists and priests.

2.1.1 Healthcare and sickness: cash benefits and benefits in kind

Serbia has a compulsory health insurance system, which is managed by two funds: the Fund for the Social Insurance of Army Personnel, and the public HIF. Healthcare insurance²⁵ covers: (1) medical care and the provision of pharmaceutical products; (2) sick-leave benefits, and (3) reimbursement of travel costs during medical treatment.

¹⁸ RS Official Gazette 101/2005

¹⁹ The central register of social insurance was established in May 2010, and it serves as a database for the PIO Fund, HIF, NES and tax administration, RS Official Gazette 30/10

²⁰ RS Official Gazette 112/2015, the law on compulsory social insurance Contributions

²¹ RS Official Gazette 57/2014, the law on individual income tax

²² This option is not available to businesses and professions in the following areas: auditing, bookkeeping, marketing, wholesale and retail trades (except for street vendors), hotels and restaurants.

²³ RS Official Gazette 135/14, regulation on the detailed conditions for calculating the lump-sum taxing of obligators from self-governing businesses.

²⁴ The minimum base is calculated as 35% of the national average wage for the last quarter.

²⁵ Law on health insurance, RS Official Gazette 10/2016

Family members of the insured are also covered by compulsory healthcare insurance (if not covered otherwise).

Healthcare insurance of vulnerable people, who are not insured through employment, work contracts or as a family member, is financed by the central budget²⁶ (Act 22, Law on Healthcare Protection). Vulnerable people are defined by reference to specific diseases (HIV, malignant diseases, etc.) and by socio-economic status. Registered unemployed people are also eligible for inclusion if their monthly income is below the determined threshold²⁷. For a single-member household the threshold is set at 130% of the net minimum wage; for a multiple-member household the threshold is one minimum wage per family member²⁸. Unemployed beneficiaries are entitled to medical care, provision of pharmaceuticals and reimbursement of travel costs, but not to sick-leave benefits. The law on the healthcare rights of children, pregnant women and mothers during maternity leave²⁹ stipulates that the healthcare costs of these groups will be reimbursed from the state budget, if not covered otherwise.

The coverage of compulsory health insurance is high; in 2014 6,940,959 people were registered as insured people, which represented 97.3% of the total population. In December 2014 one-fifth (19.7%) of all insured persons were covered by the state budget³⁰: out of that number, 69% were people insured under Act 22 (31% of them as family members).

The data shows that a number of people employed in the grey economy, as well as people who are occasionally engaged in non-standard work outside employment, are covered by healthcare insurance under Act 22; the majority of them exercise this right as registered unemployed people. This practice is illegal, but it is possible to evade the rules due to the high number of registered unemployed people, which imposes an excessive workload to NES and HIF staff associated with the regular monitoring of cases.

People who are not insured under any condition can enrol individually for compulsory health insurance; the contribution rate is calculated by reference to the minimum wage.

2.1.2 Maternity/paternity cash benefits and benefits in kind

Maternity/paternity cash benefits are regulated by the law on financial assistance to families with children³¹ and the related Directive³² which regulates the conditions for payment in respect of maternity/paternity leave. Maternity leave is confined to 365 days for the first and second child³³. All non-standard employees who are within the scope of employment (see Table 3) have the right to acquire this benefit. Where maternity leave extends beyond the contracted fixed-term period the employer must prolong the duration of the contract. Fathers may exercise this right in special cases when the mother is unable to undertake the care of the baby (due to sickness, absence, court order or death).

The other regulated entitlements in this area are: sick-leave payments for one of the parents caring for a sick child, and sick-leave payments for special care of a sick infant. The right to these cash benefits is approved under the same conditions as for maternity/paternity leave and conditions are the same for all employed people. There are no regular benefits in kind.

²⁶ Law on healthcare protection, RS Official Gazette 93/2014

²⁷ The minimal income is determined by the agreed minimal wage

²⁸ <http://www.rfzo.rs/index.php/osiguranalica/zdr-knjizice>; in December 2016 the minimum wage was EUR 173

²⁹ RS Official Gazette 104/2013

³⁰ Source: HIF, <http://www.rfzo.rs/index.php/broj-osiguranika-stat>, Dec. 2016

³¹ RS Official Gazette 107/2009

³² RS Official Gazette 10/2010, The Directive on the conditions for exercising the rights on financial support for families with children

³³ Two years for the third and other children, as well as for triplets and other multiple births.

2.1.3 Old-age and survivors' pensions

There is presently only one PIO Fund³⁴ and the related rights are regulated by the law on pension and invalidity insurance³⁵. The retirement age for men is 65, and 61 for women (phased-in equalization of the retirement age of women, to 65, will take place by 2031). Under this law the statutory obligation to pay pension and invalidity contributions applies to all persons who have work arrangements, independently of the type of arrangement/contract – standard employment, self-employment and all types of non-standard employment. The rights are the same for all compulsorily insured workers.

The entitlement to old-age and survivors' pensions is the same for all insured people in accordance with the national regulations. In 2015 self-employed pensioners made up 4.7% of the total number of pensioners, with the following structure: 57.6% old-age pensions, 21.9% disability pensions, and 20.5% survivors' pensions.

2.1.4 Unemployment benefits and social assistance benefits

Unemployment insurance is compulsory for all employed and self-employed people, as well as people who work under different work contracts³⁶. This insurance secures payment of unemployment benefits and coverage under the compulsory social insurance system (in respect of healthcare, pensions and invalidity). The right to benefits is accorded to a person who has been employed for at least 12 months without pauses lasting more than 30 days, or for at least 18 months with pauses, prior to taking up the entitlement. Unemployment benefits are granted to all people who were previously regularly employed, and also to people who have non-standard work contracts. Only workers in casual employment, with project- or task-based contracts, are not entitled to unemployment benefits³⁷.

Social assistance benefits are regulated by the Social Protection Law³⁸, which deals with the administration of financial benefits, benefits in kind and delivery of available social protection services. The main financial benefit is Financial Social Assistance (FSA), the eligibility conditions for which are the same for all beneficiaries and unrelated to the type of employment. In that sense the self-employed and those employed in non-standard work have the same rights as any other beneficiary. Delivery of other services which are provided by the Centres of Social Work is not linked to the beneficiary's employment status, but to an assessment of his/her needs.

2.1.5 Long-term care benefits

Long-term care is not well developed in Serbia. The only benefit which covers the needs of dependent people is care-taker allowance, administered under the regulation of the Social Protection Law. This benefit is not means-tested and is given to a dependent person, not to a care-taker, hence delivery of this benefit is not related to employment status. The provision of daycare services is the responsibility of local government bodies: these set the eligibility conditions, which do not depend on employment status. Commonly these services are free of charge, or subject to a small participation fee; however, at present the supply of these services is low and uneven, since it depends on local government budgets.

³⁴ From 1992 to 2008 there were three 'civilian' funds: (1) Employee's Fund; (2) Self-employee's Fund and (3) Farmers Fund; The Army Fund was integrated into the PIO Fund in 2012.

³⁵ RS Official Gazette 75/2014

³⁶ RS Official Gazette 36/2009, 88/2010, Employment and Unemployment Insurance Law

³⁷ In practice these contracts are mostly used for intellectual services performed as additional work done by employed persons, who perform these services outside their regular employment.

³⁸ RS Official Gazette 24/2011

2.1.6 Invalidity, accidents at work and occupational injuries benefits

The PIO Fund is responsible for the administration of compensation for disability caused by occupational injuries or by profession-related disease, and for invalidity pensions. Under current legislation, all workers in standard and non-standard types of employment as well as the self-employed are obliged to participate in pension and invalidity insurance and consequently are all entitled to these benefits.

Disability pensions are approved by reference to the cause(s) of disability. If disability is not caused by work-related injuries/diseases the conditions require five years of insurance coverage for persons older than 30 (for younger beneficiaries the required duration of coverage is lower, depending on age). If the disability is work-related, the calculation of the pension is based on 40 years of service.

2.1.7 Family benefits

The family cash benefits are child and parental allowances; these are regulated by the law on financial assistance for families with children³⁹. The benefits are means-tested and do not depend on the employment status of the parents or the family members.

2.2 Assessment of the existing social provisions and of the impact of possible extension of their coverage

Unincorporated enterprises have a significant role in the country's economy. In 2013 unincorporated enterprises constituted 70% of all active enterprises⁴⁰. Business demography statistics show a slight worsening of business indicators after 2008 (Table 2). Both the business birth rate and business death rate are above the corresponding EU averages⁴¹ (9% death rate in 2012 and birth rate close to 10% in 2013), while three-year survival rates declined after 2008, and in the remaining observed period were close to the EU average of 55% for 2013. A relatively high birth rate points to transitions from unemployment or insecure employment to self-employment, while high death rates show that self-employed people need more support for maintaining their business.

Table 2. Trends in business demography statistics, unincorporated enterprises 2008-2013

Trend	2008	2010	2011	2012	2013
New	43,375	35,036	32,236	30,200	31,364
Closed	34,572	37,086	35,288	32,853	38,230
Birth rate*	17.4 (2009)	15.6	14.1	13.4	14.5
Death rate	16.1 (2009)	16.6	15.4	14.5	17.1
N + 2 year survival rate	66.2 (2007)	54.1	55.4	50.3	54.8

Source: Ministry of Economy, *The report on SME and entrepreneurs 2013*.

* The number of newly born enterprises as a proportion of the total number of active enterprises⁴²

The role of the self-employed is less prominent in fostering employment, since their contribution to total employment is low, at about 10.4% (2015)⁴³.

³⁹ The cash payment given on the birth of the first four children in the family.

⁴⁰ RS Ministry of Economy, *The report on SME and entrepreneurs 2013*

⁴¹ http://ec.europa.eu/eurostat/statistics-explained/index.php/Structural_business_statistics_at_regional_level#Enterprise_demography:_births.2C_deaths_and_survival

⁴² http://ec.europa.eu/eurostat/statistics-explained/index.php/Business_demography_statistics

⁴³ RSO, *Statistics Yearbook 2016, LFS data, 206*

In assessing social protection for the self-employed and workers in non-standard employment, a distinction is drawn between social insurance benefits and all other non-contributory social protection benefits administered and financed by the state or by local government.

Under both national legislation and in practice, all residents have equal rights to non-contributory social benefits.

Access to compulsory social insurance rights is subject to the type of work engagement and employment status. Self-employed workers and workers in non-standard employment (fixed-term, part-time, and casual work) have the same obligations and rights as any worker in standard employment, as outlined in Table 3. Workers in non-standard employment who work outside the sphere of employment under project- or task-based contracts have rights to retirement and healthcare insurance, but not the right to paid sick leave and maternity/paternity leave. One of the reasons for this practice may be the specific nature of contract agreements, where the contracted worker does not have the same obligations as an employee regarding the required working hours spent at the workplace. The latest data on registered employment, from the 3rd quarter of 2016, show that only 3.4% of all workers were employed outside the employment sphere under non-standard work contracts (project- or task-based contracts), which is 10% more than in the same period in the previous year⁴⁴. The fact that only a small fraction of workers are contracted under these conditions might also be the reason that the authorities do not give consideration to protecting their social rights.

Table 3. Compulsory social insurance obligations & rights for non-standard work

Type of contract	Special conditions	Social insurance	
		Obligations	Rights
Employment relationship			
1. Fixed-term contracts (FTCs)	No longer than 24 months	Payment of all compulsory contributions	Full rights as a permanent employee
2. Part-time work	Less than 40 hours a week (or 36 hours or some professions)	Payment of all compulsory contributions	Full rights as for standard employment
Outside the scope of employment			
1. Contracts for casual or irregular work	No longer than 120 working days in a calendar year	Payment of all compulsory contributions	Full rights as for standard employment
2. Project- or task-based contracts		Payment of all compulsory contributions	Retirement and healthcare rights; without paid sick leave

Little is known about the provision of compulsory social insurance for people contracted by employment agencies. As noted earlier, half of these agencies altogether employed around 50,000 workers in 2015, which is 2.7% of all registered employees. The total number of such employees is estimated to be in the range 60,000-80,000⁴⁵. The only research paper on this subject ('Workers on leasing') says that a number of public companies practise staff-leasing as a way to by-pass the current ban on new

⁴⁴ RSO, Announcement no. 258, Statistics on employment and wages, Sept. 2016

⁴⁵ <http://rpkn.com/na-lizing-radi-oko-70-000-obespravljjenih-radnika/>

employment in the public sector. The government has established a working group to prepare a draft law on employment agencies⁴⁶.

Important questions regarding the status of people who work in non-standard employment arise in relation to new forms of employment, such as the platform economy and staff-leasing by employment agencies. Currently there are no data or research studies on the number of people who are engaged in the platform economy and other similar new forms of employment. The only information comes from the media, which have covered the stories of (mostly young) people who work for foreign contractors⁴⁷. Serbian residents who work for an international, or any other foreign, contractor who is not obliged to pay social contributions in Serbia⁴⁸, are under an obligation to calculate compulsory social insurance contributions, and to pay them regularly. Without an insight into the extent of these types of work engagement it is not possible to estimate the extent to which these rules are followed.

In the 2015 LFS⁴⁹ entitlement to compulsory social insurance rights was confirmed by all respondents to the survey as follows: 90.3% were entitled to pension insurance; 90.3% to health insurance; and 87% to paid sick leave. These data, along with current legislation, illustrate that in the area of social protection the self-employed and workers in non-standard employment have to great extent **the same rights** as employees in standard employment.

Extension of the benefits is currently not an issue, since there is almost no difference in the scope of social protection rights as between workers in standard and non-standard employment. The key issue is compliance with national regulations by both parties – the administrative bodies and by workers and their employers.

It should be pointed out that the ongoing practice of evading payment of compulsory social insurance contributions erodes the national social insurance system. As noted earlier, the registered unemployed are entitled to health insurance coverage secured by the state budget (means-tested right): evidence shows that this right has been misused, mostly by people employed in the informal economy who are at the same time registered at the NES as unemployed in order to acquire healthcare insurance coverage. This is also evidenced by comparing the data on the number of unemployed people. The NES data on the number of registered unemployed people in the 3rd quarter 2016⁵⁰ showed a figure of 748,938, whereas the LFS⁵¹ data for the same period revealed 450,100 to be unemployed – 60.1% of those registered.

Looking at other potential shortcomings regarding current practice, the issue of possible underpayment of compulsory social insurance contributions arises in connexion with self-employed entrepreneurs who pay contributions on the basis of taxable lump-sum income. Entrepreneurs who choose this alternative may be in a position to pay lower social insurance contributions, since it may underestimate their income, especially in the case of high-earning professions, such as lawyers, physicians and similar. Estimates are that about two-thirds of entrepreneurs opted for lump-sum taxation in 2015⁵². In 2014 the lawyers' trade union started a strike when the government announced that their profession would be excluded from lump-sum taxation: the proposed amendment was withdrawn.

In order to resolve the problems caused by weak fiscal discipline, the government has introduced several measures designed to reinstate fiscal discipline and to assist the self-

⁴⁶ Ibid.

⁴⁷ <http://www.mojnovisad.com/vesti/istinina-prica-mladog-novosadjanina-predavao-sam-engleski-japanki-iz-boinga-id4891.html> accessed on Dec. 1st 2016

⁴⁸ This applies to all those who are not subject to bilateral social insurance agreements with Serbia.

⁴⁹ RSO, Bulletin 608, LFS in Serbia 2015, 2016

⁵⁰ NES, Monthly statistics bulletin, September 2016, no. 169

⁵¹ RSO, LFS 3rd Q 2016, Announcement 321, Sept. 2016

⁵² <http://www.poslodavci.rs/nov-sistem-pausalnog-oporezivanja-smanjuje-broj-preduzetnika/>

employed to realize their social insurance rights. In October 2012 the government adopted a law⁵³ that provides for the writing-off of all arrears for unpaid contributions for compulsory healthcare insurance (and of related late fees) and the postponement of payment of other fiscal obligation under conditions that are more favourable for natural persons than for legal persons. A further measure concerns the high debts farmers had incurred in respect of compulsory social insurance contributions by the end of 2016: in March 2016 the government adopted a Conclusion⁵⁴ which allows separate payment of contributions for healthcare insurance⁵⁵, while payment for pension and invalidity insurance contributions can be made at different times. Application of this measure will allow farmers to regain coverage of healthcare insurance, and to repay their debts in due course.

Private health and retirement insurance is not well developed in Serbia. Private health insurance is available, but does not cover all medical procedures, only primary healthcare services and less complex surgical procedures. Data for 2011 show that only 12,000 persons were insured with four private health insurance companies⁵⁶. Private retirement insurance is underdeveloped as well. In 2014 around 185,800 contracts were signed with private insurance companies, which is 18% more than in 2008⁵⁷.

The current arrangements for individual coverage within compulsory social insurance schemes are very convenient for all people who are left out of social insurance coverage. The acts on pension and invalidity insurance and healthcare insurance allow 'individual accounts' for self-inclusion in the compulsory insurance schemes to all people older than 15 who are not insured otherwise. Uninsured people may choose to enter one or both of the compulsory insurance schemes under very favourable terms. The option for joining the compulsory pension and invalidity insurance scheme allows individually insured people to choose among the 13 available bases for the calculation of contribution payments, with the same contribution rate as that which is effective for all insured people⁵⁸. The option to transfer in or out is available at any time, while any acquired retirement rights remain permanent. The individual insurance option for compulsory healthcare sets the contribution payment by reference to the minimum wage (indexed every three months), and the transfer options are the same as those for the PIO Fund.

3 Conclusions and recommendations

The overall conclusion regarding access to social protection for self-employed people and those working under non-standard contracts is that their rights in this area are to a great extent the same as the rights of employees under standard employment contracts. Access to non-contributory social benefits is unrelated to the employment status of the beneficiary. Some of the rights within the compulsory social insurance scheme depend on the type of contracted work arrangements. The main difference concerns people who work under project- or task-based contracts, since they are not entitled to unemployment benefits, maternity/paternity leave and sick-leave benefits.

The most vulnerable, regarding the realization of their rights to social protection, are people employed via employment agencies and informally employed people. There is little knowledge regarding the status of the first group, while informal employment is illegal and the relevant issues are dealt with within the legislation on illegal employment.

⁵³ RS Official Gazette, 119/2012

⁵⁴ <http://www.srbija.gov.rs/vesti/vest.php?id=261919>

⁵⁵ Under the law all social insurance contributions are paid in one instalment.

⁵⁶ <http://www.rts.rs/page/stories/sr/story/125/drustvo/998644/lecnje-uz-privatno-osiguranje.html>

⁵⁷ The National Bank of Serbia, Report on the private insurance, 2016

⁵⁸ <http://pio.rs/images/dokumenta/statistike/Osiguranici/2016/OSNOVICE%20OD%2001.08-31.10.2016%20SG-lat.pdf>

It is evident that the current social protection systems have not been reformed adequately to respond to new trends in the labour market. In the last ten years all relevant social protection and labour laws have been amended several times, but there has been no assessment of the impact of the changes on the realization of social protection rights. As the business environment has changed, the amendments adopted have not responded to new forms of employment. All governments have been primarily focused on maintaining the wide coverage of compulsory healthcare and pension and invalidity insurance, which has been an established practice in the previous decades. At the same time, the majority of citizens consider that it is the responsibility of the government alone to secure the full coverage of the compulsory insurance schemes, without comprehending their own obligations to comply with the existing law.

This approach – maintaining high coverage for compulsory healthcare insurance at a time when one-fifth of the population does not pay for healthcare insurance, and arrears for this insurance are written-off for a number of enterprises – has resulted in a steady decrease in the revenues, and increased debts, of the HIF. The PIO Fund also has a high deficit due to low employment, evasion, and/or delayed contribution payments and underpayments; in 2014 45% of PIO fund expenditures were financed from the central budget. For several years policies in this area have been more orientated towards coping with current problems than finding effective long-term responses to ongoing and prospective changes in the business environment.

Since the onset of the economic crisis the government has been more orientated towards fostering employment and creating new jobs than reforming the social care insurance schemes. ALMP have been partially orientated at providing technical and financial support to entrepreneurs for opening new businesses or maintaining existing ones. Informal employment, which has been present for decades, is another government priority for improving the labour market environment, and at the same time for improving the working conditions of the informally employed. With that in mind, all adopted amendments to the relevant laws have been more orientated towards fostering employment and creating a business-friendly environment, and less towards modernizing social protection schemes.

A failure to upgrade the legislation has accordingly resulted in potential abuses and the avoidance of social insurance contributions. A high proportion of entrepreneurs opt for lump-sum taxation, and correspondingly their social insurance contributions are also calculated on this base. This practice advantages those with high earnings, as their monthly costs for social insurance are lower than if they were paid on their real earnings. Evasion of payments by people employed in new forms of non-standard work also seems likely to be widespread: this practice is caused partly by the lack of adequate information about people's obligations, and partly by a lack of cooperation between the tax administration authority and the central register of compulsory social insurance.

The government has announced that the new law on employment agencies will be adopted by the spring of 2017, which will regulate the area of staff leasing and bring it into compliance with the adopted Conventions on labour rights. The Ministry of Health is also preparing amendments to the law on health insurance; this law was amended seven times in the period 2012-2016, while the health protection law and the law on pension and invalidity insurance were amended four times in the same period. So many amendments in such a short period point to a deficiency in long-term planning, and also show a high reliance on legislation as the only instruments for eliminating the ongoing inefficiencies of the social protection systems.

There is almost no research and analysis relating to the social protection of self-employed people, while it is difficult to assess the true extent of self-employment due to different methodologies and data sources. Without the right information and knowledge, the development of future policies will not be effective in improving the status of self-employed people in Serbia.

The recommendations in this paper are based on the observed shortcomings in different statuses of some self-employed people regarding entitlement to social protection, and upon the observed gaps in existing primary legislation and gaps in data collection and publishing.

Decision-makers should modernize the compulsory insurance schemes, within the resources available for social protection, prioritizing the adequate coverage of the most vulnerable people. The practice, hitherto, of responding to the pressure exerted by different interest groups (farmers, lawyers, etc.) should be avoided; instead an objective plan for regulating the obligations of all stakeholders should be drawn up, including measures to ensure strict compliance with the rules.

The authorities should be made more aware of the new forms of employment that are becoming dominant in more developed economies, even though these forms are not yet widespread in Serbia. The appropriate strategies to respond to these trends should be mainstreamed in the preparation of new primary legislation.

The LFS questionnaire and other regular surveys on employment should be updated in order to capture the new forms of employment. Research in this area should be encouraged, with wide dissemination of the results.

It is apparent that the general public is not well informed about their rights and obligations in the area of social protection, and therefore an adequate information system should be set up in all relevant administrative institutions.

Annex 1

SUMMARY TABLE: ACCESS TO SOCIAL PROTECTION: SELF-EMPLOYED

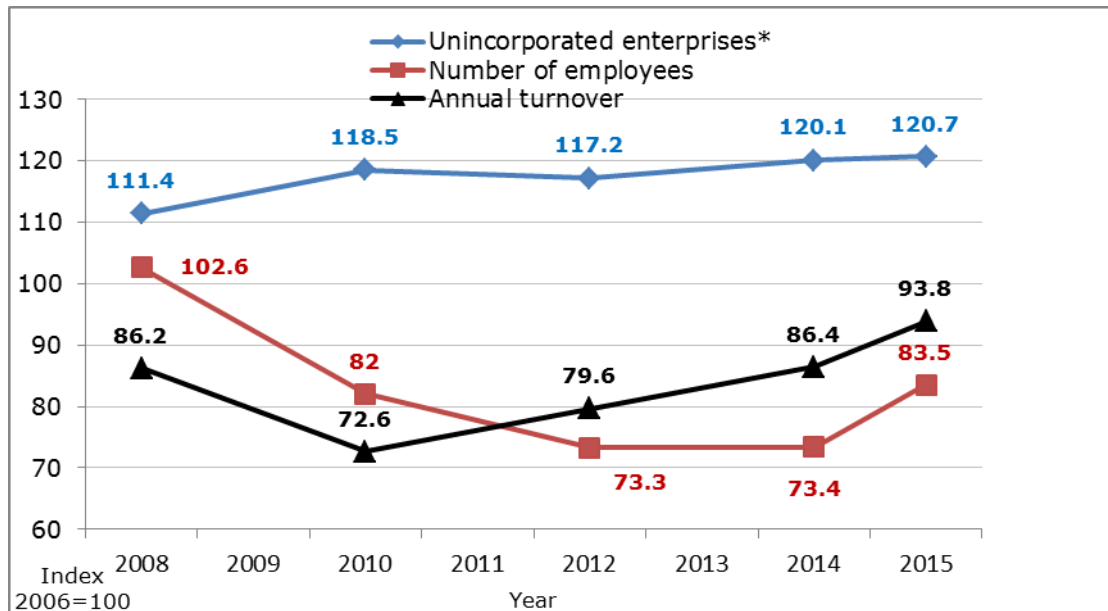
	On her/his own account	With employees (self-employed employer)	Dependent on single client	Dependent on contractual relationship with client	Liberal professions (e.g. doctor, notary, lawyer)
Healthcare - cash benefits and benefits in kind	Full	Full	Full	Full	Full
Sickness - cash benefits and benefits in kind	Full	Full	None	None	Full
Maternity/paternity - cash benefits and benefits in kind	Full	Full	None	None	Full
Old age pensions (preretirement benefits and pensions)	Full	Full	Full	Full	Full
Survivors pensions and death grants	Full	Full	Full	Full	Full
Unemployment benefits	Full	Full	None	None	Full
Social assistance benefits	Full	Full	Full	Full	Full
Long-term care benefits	Full	Full	Full	Full	Full
Invalidity benefits	Full	Full	Full	Full	Full
Accidents at work and occupational injuries benefits	Full	Full	Full	Full	Full
Family benefits	Full	Full	Full	Full	Full

SUMMARY TABLE: ACCESS TO SOCIAL PROTECTION: CONTRACTUAL EMPLOYMENT (NON-STANDARD CONTRACTS)

	Full-time employee	Part-time employee	Fixed-term employee	Temporary agency worker	Casual and seasonal workers	On-call workers	Zero-hour workers	Apprentices	Paid trainees	(Other) persons in vocational/professional training	Unpaid family workers
Healthcare - cash benefits and benefits in kind	Full	Full	Full	Full	Full	Full	n/a	Full	Full	Full	Full
Sickness - cash benefits and benefits in kind	Full	Full	Full	n/a	None	None	n/a	Full	Full	Full	None
Maternity/paternity - cash benefits and benefits in kind	Full	Full	Full	n/a	None	None	n/a	Full	Full	Full	None
Old age pensions (preretirement benefits and pensions)	Full	Full	Full	n/a	Full	Full	n/a	Full	Full	Full	None
Survivors pensions and death grants	Full	Full	Full	n/a	Full	Full	n/a	Full	Full	Full	None
Unemployment benefits	Full	Full	Full	n/a	None	None	n/a	Full	Full	Full	None
Social assistance benefits	Full	Full	Full	Full	Full	Full	n/a	Full	Full	Full	Full
Long-term care benefits	Full	Full	Full	Full	Full	Full	n/a	Full	Full	Full	Full
Invalidity benefits	Full	Full	Full	n/a	Full	Full	n/a	Full	Full	Full	None
Accidents at work and occupational injuries benefits	Full	Full	Full	n/a	Full	Full	n/a	Full	Full	Full	None
Family benefits	Full	Full	Full	Full	Full	Full	n/a	Full	Full	Full	Full

Annex 2

Figure 1. Trends in the numbers of unincorporated enterprises, their employees and realized turn-over, 2006-2015



Source: RSO, *The Unincorporated enterprises (sole-proprietorships and partnerships)*, Working Papers: No.60, 78, 83, 92, 95:

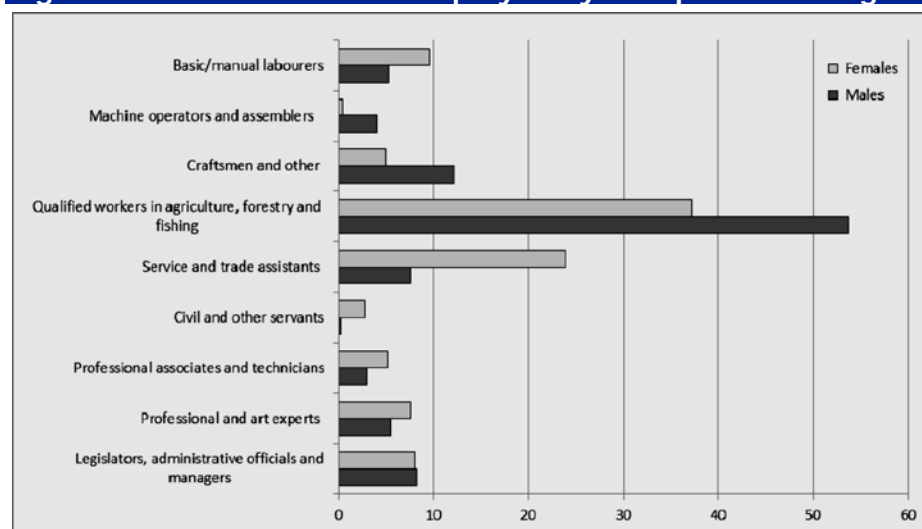
* Sole-proprietorships and partnerships

Table 1. Trends in number of unincorporated enterprises and employment, 2006-2015

	2006	2008	2010	2014	2015
Number of unincorporated enterprises	192,919	214,819	228,680	231,616	232,765
Number of employees	283,173	290,591	232,176	207,748	236,359

Source: RSO, *The Unincorporated enterprises (sole-proprietorships and partnerships)*, Working Papers, No.60, 78, 92 95:

Figure 2. Structure of self-employed by occupations and gender, 2015 (%)



Source: RSO, *LFS in R. Serbia, 2015*, Bulletin 608, 2016

Box 1 - Formula for the calculations of the Lump-sum Income Tax Base

Variable 1 – The initial base = the republic average monthly wage from the previous year. When the average wage realized in the local community where the business is registered was 10% below/above of the republic average, the initial base is determined according to the local community average (this initial base can't exceed the value of the double republic average wage).

Variable 2. – Percentage weights determined according to the categorization of business groups:

No.	Groups	Percentage weights
1	Old crafts, porters, shoe cleaners, repair of: umbrellas, fountain pens; priests, etc.	25%
2	Shoe-repair, tailors, watch repair, hair dressers for men only, etc.	50%
3	Hair dressers for women, cosmeticians, plumbers, electricians, green market sellers	75%
4	Bread/pastry makers (shops), carpenters, jewellers, construction services...	140%
5	Lawyers, dentists, physicians, pharmacists, architects, veterinarians, translators, etc.	120%
6	Taxi drivers, all other transportation of passengers or/and goods	35% -165%

Source: Regulation on detailed conditions, criteria and elements for the lump-sum taxation of self-governance business

Variable 3. - Percentage weights based on the operational business conditions of the tax payer in question: seven business conditions which relate to: 1) geographic and spatial determinants of location (rural/urban; centre/suburb; from -20% to +50%); 2) the personal characteristics of the entrepreneur (age, disability, gender; >20% for people older than 50 years of age and >25% depending on the disability level); 3) local business marketing environment (from -50% to +100%); 4) size of the venue (from -10% to +50%), 5) number of employees (+10% for every employee); 6) other conditions which affect income (from -50% to +300%); 7) income level of entrepreneurs with the similar business conditions. The assessment is conducted by the local tax office.

Lump-sum Income tax base = The Republic average monthly wage (previous year) X Percentage (weight) for the business group X Percentage increase/decrease determined for the 7 operational business conditions.

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