



REPUBLIKA SLOVENIJA  
VLADA REPUBLIKE SLOVENIJE

Date: 13 April 2022

---

**Action plan**  
**on the basis of the Council Recommendation of 8 November 2019**  
**on access to social protection for workers and the self-employed**

## **1. Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed**

The Council of the European Union has adopted the Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed.

Part 1 sets out the subject matter of the Recommendation and its objectives. It aims in particular to ensure the following for all workers and the self-employed:

- formal coverage by social protection;
- effective coverage, adequacy of social protection;
- transparency of social protection entitlements.

The Recommendation applies to workers and the self-employed, including people transitioning between either status or having both statuses, as well as people whose work is interrupted due to the occurrence of one of the risks covered by social protection.

It applies to the following branches of social protection, insofar as they are provided in the Member States:

- a) unemployment benefits;
- b) sickness and healthcare benefits;
- c) maternity and equivalent paternity benefits;
- d) invalidity benefits;
- e) old-age benefits;
- f) benefits in respect of accidents at work and occupational diseases;

Member States are recommended to extend formal coverage to all workers, regardless of the type and duration of their employment relationship, and to the self-employed. Member States should offer the self-employed the possibility of voluntary access to social protection by extending formal coverage. It is also recommended that Member States should ensure effective coverage, regardless of type of employment relationship and labour market status, by reviewing the rules governing contributions and entitlements. The Recommendation encourages Member States to ensure the adequacy of social protection and to better tailor the schemes to the situation of beneficiaries. It also introduces the principle of transparency by encouraging Member States to improve access to information on social protection rights and obligations and to simplify administrative requirements.

The conclusion establishes the maximum period that Member States have in order to implement the principles set out in the Recommendation and to publish regular data. It invites the European Commission to propose a benchmarking framework within a year after the publication of the Recommendation, to review the implementation of the Recommendation within three years, and to support Member States through funding and mutual learning exchanges.

## **2. Action plan at national level**

Point 19 recommends that Member States should implement the principles set out in the Recommendation as soon as possible and submit a plan setting out the corresponding measures to be taken at national level. The progress in the implementation of these plans should be discussed in the context of the multilateral surveillance tools in line with the European Semester and the Open Method of Coordination for Social Inclusion and Social Protection.

### 3. Access to social protection for employees and self-employed people in Slovenia

In Slovenia all workers with an employment relationship are entitled to all the areas of social protection referred to above, irrespective of the different forms of employment relationship distinguished in the Recommendation (atypical forms of employment are those in which workers do not have full-time, open-ended contracts).

The Recommendation also suggests that Member States should extend formal coverage to all workers, regardless of the type and duration of their employment contract, and provide self-employed persons with access to social protection by extending their formal coverage:

- on a mandatory basis for sickness and healthcare benefits, maternity/paternity benefits, old age and invalidity benefits as well as benefits in respect of accidents at work and occupational diseases;
- on a voluntary basis for unemployment benefits.

This formal coverage has already been established for self-employed people in Slovenia by their compulsory inclusion in both types of formal coverage.

In Slovenia social security is governed by laws and implementing regulations and is based on rights enshrined in the Constitution. The Constitution states that Slovenia is a welfare state and provides its citizens with a social security system based on reciprocity and solidarity between generations. Citizens exercise their right to social security through the laws governing the social security system. Citizens also contribute to the exercise of social security rights by paying contributions.

The foundational laws in the area of mandatory social insurance are the Pension and Disability Insurance Act<sup>1</sup> (hereinafter 'ZPIZ-2'), the Health Care and Health Insurance Act<sup>2</sup> (hereinafter 'ZZVZZ'), the Parental Protection and Family Benefits Act<sup>3</sup> (hereinafter 'ZSDP-1') and the Labour Market Regulation Act<sup>4</sup> (hereinafter 'ZUTD'), which lay down the method and conditions of insurance, the base on which contributions are paid, the types of contributions and the entities liable to pay contributions to pension and disability insurance, health insurance, unemployment insurance and parental protection insurance, as well as the Long-Term Care Act<sup>5</sup> (hereinafter 'ZDOsk'), which governs the system of long-term care, the rights and obligations of providers and beneficiaries of long-term care and the sources and method of financing such care.

The requirement to pay contributions towards mandatory social security, and the contribution rates, are laid down in the Social Security Contributions Act<sup>6</sup> (hereinafter 'ZPSV'), ZPIZ-2 and ZZVZZ.

---

<sup>1</sup> Pension and Disability Insurance Act (*Uradni list RS* (UL RS; Official Gazette of the Republic of Slovenia) Nos 96/12, 39/13, 99/13 – ZSVarPre-C, 101/13 – ZIPRS1415, 44/14 – ORZPIZ206, 85/14 – ZUJF-B, 95/14 – ZUJF-C, 90/15 – ZIUPTD, 102/15, 23/17, 40/17, 65/17, 28/19, 75/19, 139/20, 189/20 – ZFRO, 51/21, 121/21 and 162/21)

<sup>2</sup> Health Care and Health Insurance Act (UL RS Nos 72/06 – official consolidated text, 114/06 – ZUTPG, 91/07, 76/08, 62/10 – ZUPJS, 87/11, 40/12 – ZUJF, 21/13 – ZUTD-A, 91/13, 99/13 – ZUPJS-C, 99/13 – ZSVarPre-C, 111/13 – ZMEPIZ-1, 95/14 – ZUJF-C, 47/15 – ZZSDT, 61/17 – ZUPŠ, 64/17 – ZZDej-K, 36/19, 189/20 – ZFRO, 51/21 and 159/21)

<sup>3</sup> Parental Protection and Family Benefits Act (UL RS Nos 26/14, 90/15, 75/17 – ZUPJS-G, 14/18, 81/19, 158/20 and 92/21)

<sup>4</sup> Labour Market Regulation Act (UL RS Nos 80/10, 40/12 – ZUJF, 21/13, 63/13, 100/13, 32/14 – ZPDZC-1, 47/15 – ZZSDT, 55/17, 75/19, 11/20 – Constitutional Court Decision, 189/20 – ZFRO, 54/21 and 172/21 – ZODPol-G)

<sup>5</sup> Long-Term Care Act (UL RS No 196/21)

<sup>6</sup> Social Security Contributions Act (UL RS Nos 5/96, 18/96 – ZDavP, 34/96, 87/97 – ZDavP-A, 3/98, 7/98 – Const. Court Decision, 106/99 – ZPIZ-1, 81/00 – ZPSV-C, 97/01 – ZSDP, 97/01, 62/10 – Const. Court Decision, 40/12 – ZUJF, 96/12 – ZPIZ-2, 91/13 – ZZVZZ-M, 99/13 – ZSVarPre-C and 26/14 – ZSDP-1)

The Tax Procedure Act (hereinafter 'ZDavP-2') provides that entities liable to pay contributions must submit returns containing true, complete and correct data. Mandatory social security needs regular funding in order to ensure that social security rights can be exercised, which is why social security contributions must also be paid on a regular basis by those liable to pay them, i.e. employers or other persons paying income to insured persons, insured persons themselves or other taxpayers by law (ministries, municipalities, employment services, etc.).

### **3.1. Employees**

Social security and insurance are provided through mandatory social insurance. Mandatory social insurance currently comprises four types of insurance, for which common forms exist. Insurance against occupational injury and disease is mandatory, not only for workers (employees are insured for occupational injuries and diseases through their inclusion in mandatory social insurance), but also for persons defined in Articles 17 and 18 ZZVZZ, for whom there is a specific form.

The mandatory social security coverage of employees comprises the following types of insurance:

- pension and invalidity insurance,
- health insurance,
- parental protection insurance,
- unemployment insurance, and
- long-term care insurance.

### **3.2. The self-employed**

Persons who independently perform an activity and offer their services on the market to several (fixed or incidental) customers, and persons who carry out work for one client under its direction and supervision, enjoy the same status of self-employed persons. As all self-employed people have the same status in the business register, they are all also registered in the same way for all mandatory types of social insurance (formal coverage) and have effective access to the corresponding insurance rights.

The following persons must be insured as self-employed persons:

sole traders (persons who independently perform an economic or professional activity in the Republic of Slovenia as their sole or principal occupation),

- natural persons who independently perform a professional activity, such as lawyers, private doctors, detectives (persons who independently perform another authorised activity in Slovenia); and
- persons registered abroad in the relevant self-employment register who are governed by Slovenian law in accordance with European Union rules (self-employment registered in another Member State).

Self-employed persons are insured for full insurance time, unless specified otherwise by law.

Self-employed persons are currently included in all four mandatory types of social insurance:

- pension and invalidity insurance,
- health insurance,
- unemployment insurance,
- parental protection insurance.

The self-employed are insured for occupational injuries and diseases on the basis of their coverage by the mandatory types of social insurance.

#### **4. Identification of gaps in the different components of social security regarding precarious employment**

In 2017, Slovenia launched the research project entitled 'MAPA: Multidisciplinary analysis of precarious work — legal, economic, social and health care aspects'. The MAPA project (targeted research programme 'CRP 2017', Project No: V5 -1741), co-financed by the Slovenian Research Agency and the Ministry of Labour, Family, Social Affairs and Equal Opportunities (hereinafter 'MDDSZ'), is a joint project by three Slovenian universities based on a multidisciplinary approach to all stages of research, designed to combine, and go beyond, the various approaches to defining the concept of precarious forms of work. The project's findings are public and have been published.<sup>7</sup>

The research work was carried out between 1 April 2018 and 31 March 2020 and was divided up into four strands:

- 1) Multidisciplinary definition of the concept of precarious work,
- 2) Analysis of the state of precariousness in Slovenia,
- 3) International/comparative legal analysis,
- 4) Proposals for limiting the negative effects of precarious work.

The study tackles the question of how to reduce the negative impact of precarious work and thus segmentation on the labour market, and examines ways of ensuring decent work for all economically active people. It seeks to provide a comprehensive multidisciplinary insight into the state of the labour market in Slovenia by first defining the concept of precarious work and then analysing its scope and characteristics and making a comparison with other Member States.

The unique nature of this study, which provides the most recent empirical analysis of the situation on the Slovenian labour market, is also shown by the fact that the researchers have sought to use a comprehensive multidisciplinary approach in order to draw up possible proposals for limiting the negative effects of precarious work on the individual and on society as a whole.

The study consists of three key parts:

- Part I presents the legal aspects of precarious work and the measures to mitigate its negative impact, including a labour- and social-law analysis of non-standard forms of work from the point of view of the risk of insecurity;
- Part II presents the broader context of dealing with precarious work and includes an analysis of non-standard forms of work from an economic, social and medical perspective;
- Part III presents the findings of an empirical analysis of insecurity on the labour market in Slovenia carried out among workers in potentially precarious, non-standard forms of work.

The first part contains contributions analysing the labour-law and social-law aspects of precarious work and the impact of increasingly precarious work on workers' individual and collective rights and on inclusion in the system of social insurance.

---

<sup>7</sup> <https://www.pf.uni-lj.si/raziskovanje-in-projekti/nacionalni-raziskovalni-projekti/mapa-multidisciplinarna-analiza-prekarnega-dela-pravni-ekonomski-socialni-in-zdravstveno-varstveni-v/>

First of all, an analysis of labour law is provided, focusing on the following non-standard forms of work: work under civil-law contracts and economically dependent persons, bogus (fictitious) self-employed persons and disguised employment relationships, temporary agency work, online platform work and student work. Fixed-term and part-time contracts, which are the most common and most traditional non-standard forms of work, often also involving precarious work, have not been included in this labour law analysis because the theory behind them has already been thoroughly analysed. However, they are included in the analysis of social-law aspects, and in the contributions in the second and third chapters, which analyse the broader social, economic and medical aspects of precarious work. The first part is rounded off by two contributions analysing the social-law aspects. The first contribution is a legal analysis of the inclusion of the employed population in social insurance as the fundamental approach to limiting the risk of precarious work under Slovenian social security law.

The second part deals with the rights and obligations of persons covered by social insurance, taking into account the different legal bases for inclusion in social insurance. With a view to finding solutions, the study includes various proposals for more appropriate regulation and makes recommendations stemming from international and European sources of law. The second part contains contributions analysing the economic, social and medical aspects of the impact of precarious work on individuals, the labour market and society as a whole.

The first part shows the trends of various forms of precarious work on the labour market in Slovenia and the other EU Member States. The second part addresses the broader social aspect of the impact of the rise in non-standard forms of work on income inequality, poverty and vertical mobility. It is rounded off by a contribution on the impact of precarious work on the health of the workers concerned.

The third part presents the results of an empirical analysis of precarious work on the Slovenian labour market and the need for further regulation at both national and EU level in order to prevent the spread of precarious work.

The fourth part of the study, which is intended for contracting authorities and decision-makers, provides an overview, broken down into the individual non-standard forms of work analysed in this project. The overview includes:

- the set of risks of precarious work identified in the previous phases of the project for each non-standard form of work;
- proposed measures for addressing the set of risks identified;
- a legal justification/evaluation of the proposed measures;
- an economic, social and health evaluation of the proposed measures.

The overview includes proposals for action in the various areas, as follows:

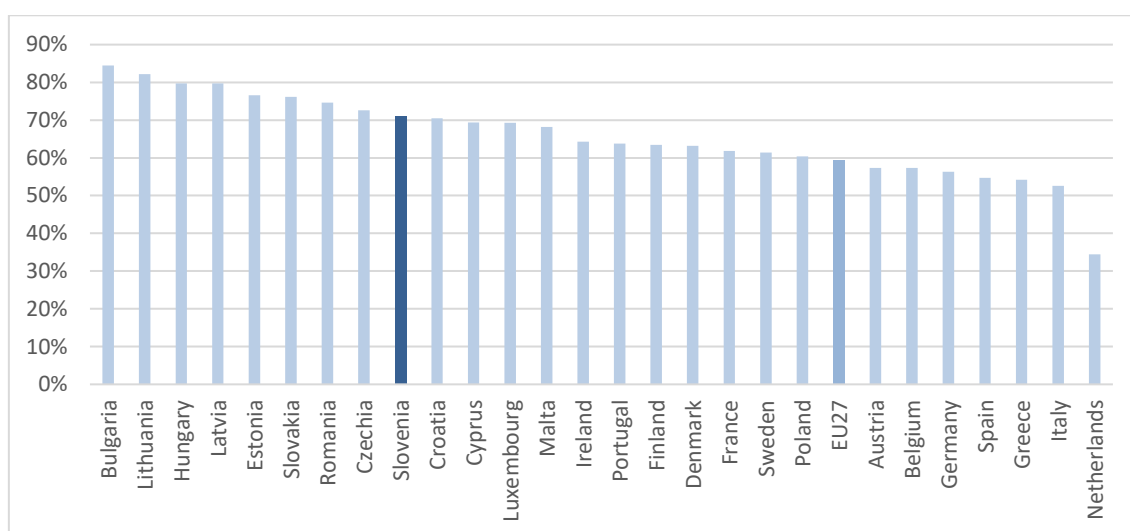
- economically dependent persons,
- bogus self-employed persons and disguised employment relationships,
- temporary agency work,
- work through online platforms,
- student work, and
- social security and social insurance coverage.

## 5. Statistics

Some of the statistics presented below are not collected on a regular basis or monitored through existing statistical surveys; in some cases they have been taken from internal material of the Social Protection Committee's Subgroup on Indicators. They are shown for the last year for which data are available.

29% of the employed population performed non-standard forms of work or were self-employed in Slovenia in 2019<sup>8</sup>, a significantly lower proportion than in the EU as a whole (40.5%). 71% of the employed population had full-time, open-ended contracts, which is 11.5 percentage points above the EU average. According to this indicator, Slovenia ranked 9th among the EU Member States (Figure 1).

*Figure 1 Full-time workers with an open-ended contract in 2019, age group 15-74, as a proportion of the employed population*

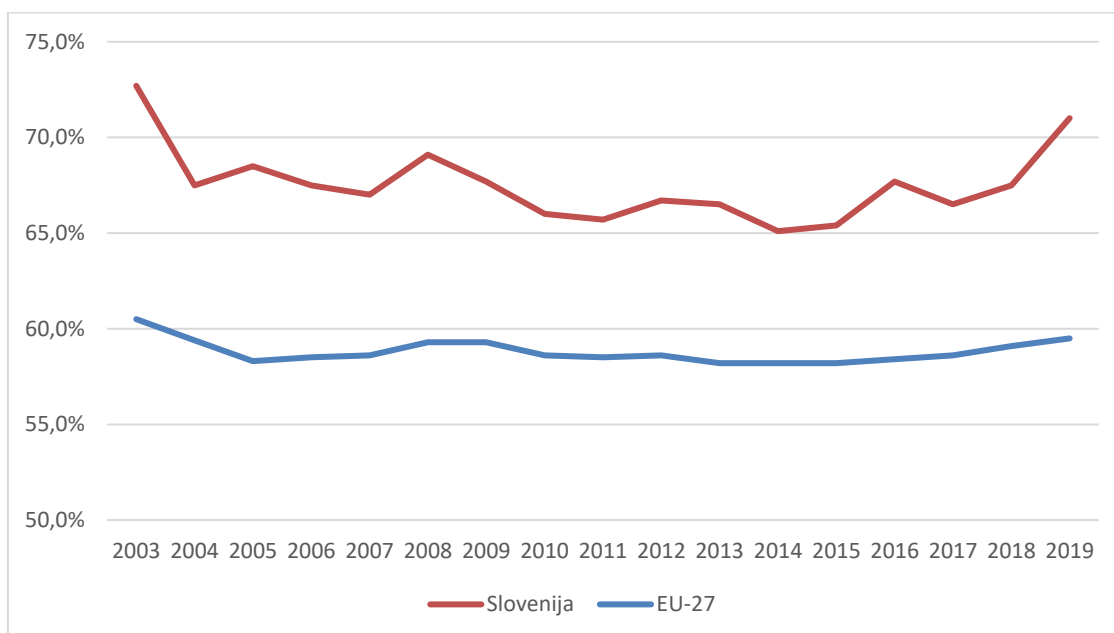


Source: Eurostat — LFS

The proportion of workers in standard employment in Slovenia fell gradually from 2003, to reach 65.1% in 2014. Since then, it has increased slowly. It rose to 71% in 2019, 3.5 percentage points higher than in the previous year (Figure 2).

<sup>8</sup> We define standard work as full-time work on an open-ended contract.

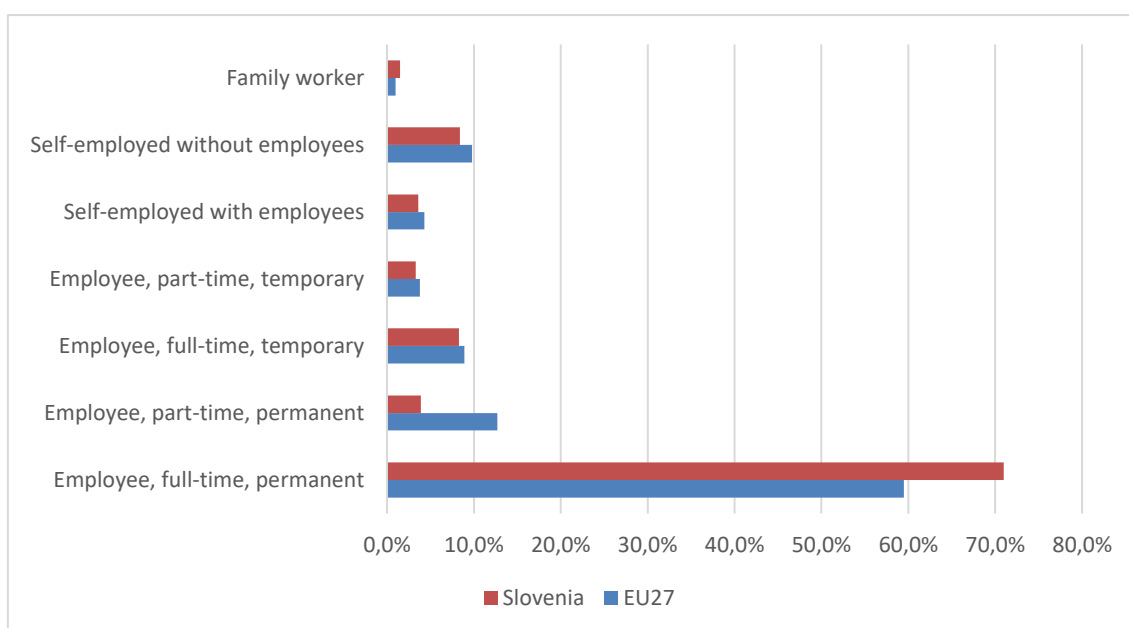
Figure 2 Change in the proportion of full-time workers with an open-ended contract, age group 15-74



Source: Eurostat — LFS

The most frequent non-standard forms of work in Slovenia in 2019 were self-employed workers without employees (8.4% of the employed population) and full-time workers on a fixed-term contract (8.3%) (Figure 3). In comparison with the EU average, there are no significant differences in the distribution of people between the various non-standard forms of work; only the proportion of part-time workers on an open-ended contract is markedly lower in Slovenia than in the EU.

Figure 3 Forms of work in Slovenia and the EU, age group 15-74, as a proportion of the employed population, 2019

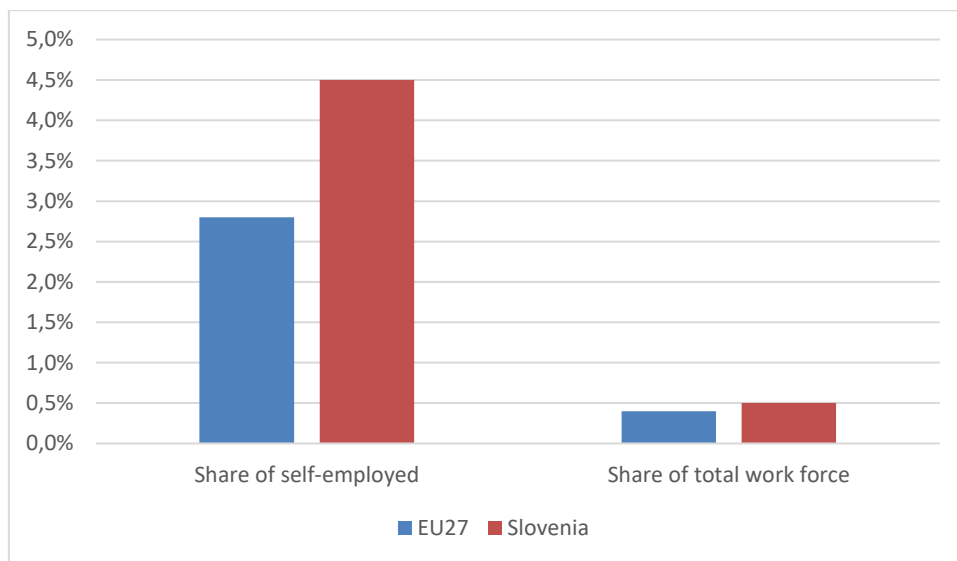


Source: Eurostat — LFS



In 2017, relative to the EU average, Slovenia had a higher share of dependent self-employed people, i.e. self-employed people without employees, who had worked mainly for one client in the previous 12 months. In 2017 dependent self-employed people accounted for 4.5% of the self-employed, or 0.5% of the employed population, in Slovenia, but 2.8% of the self-employed, or 0.4% of the employed population, in the EU (Figure 4).

*Figure 4 Dependent self-employed people in 2017, as a proportion of the self-employed and the employed population*

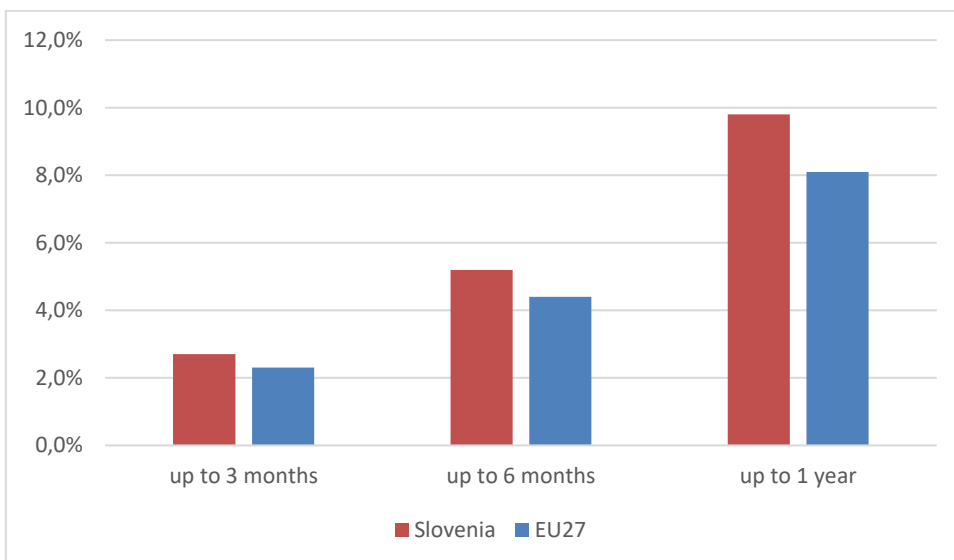


Source:

Eurostat — LFS

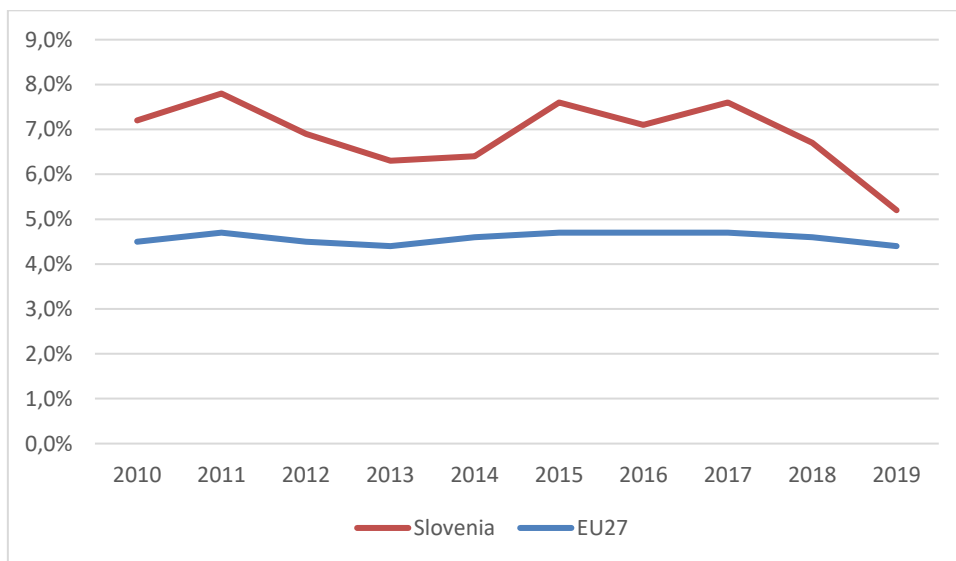
In the second most frequent form of non-standard employment, i.e. [full-time] fixed-term employment, the number of employees with short-term contracts of a duration of up to one year is higher in Slovenia than in the EU (Figure 5). Although the number of employees with contracts of less than 6 months, as a proportion of the employed population, has been decreasing in Slovenia since 2017 (Figure 6), it is still higher than in the EU. In 2019, the proportion was 5.2% in Slovenia and 4.4% in the EU.

Figure 5 Duration of fixed-term contract in 2019 as a % of all employees



Source: Eurostat — LF

Figure 6 Variation in the proportion of employees with a contract of less than 6 months, in relation to all employees

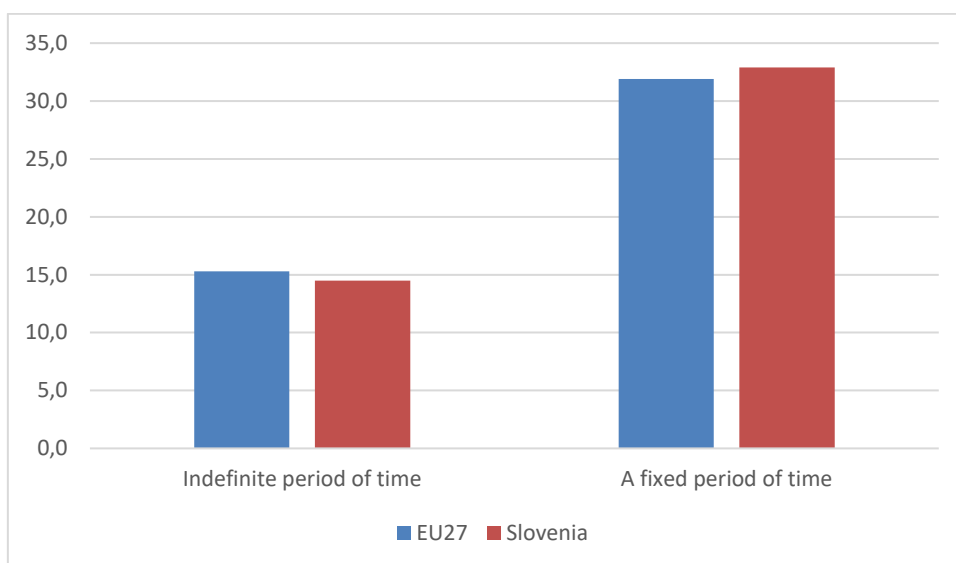


Source:

Eurostat — LFS

In 2014, employees on fixed-term contracts were twice as likely to be low-wage earners as employees on open-ended contracts (Figure 7). The proportion of low-wage earners among employees on fixed-term contracts was slightly higher in Slovenia than in the EU in that year (32.9% in Slovenia and 31.9% in the EU).

Figure 7 Proportion of low-wage earners<sup>9</sup> in 2014 by employment contract

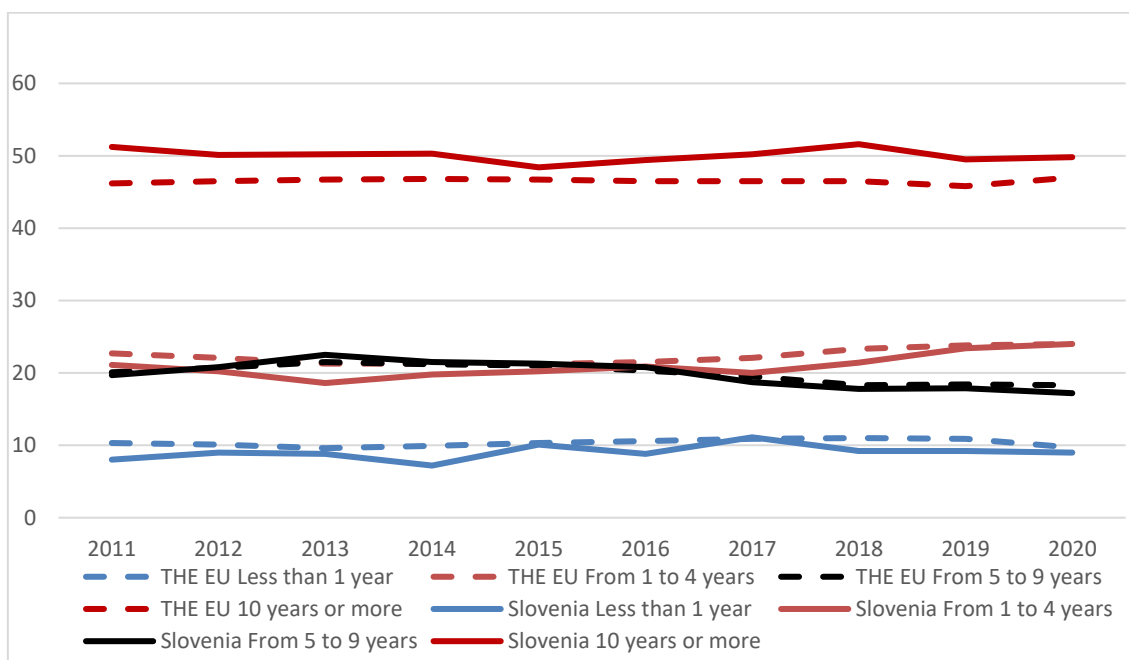


Source:

Eurostat — LFS

The proportion of employees who have worked for the same employer for 10 or more years is relatively constant (around 50%) and is higher than in the EU (Figure 8). The proportions of employees in the other groups vary depending on the labour market situation, which was particularly affected by the financial crisis and the subsequent recession.

Figure 8 Duration of employment with the same employer

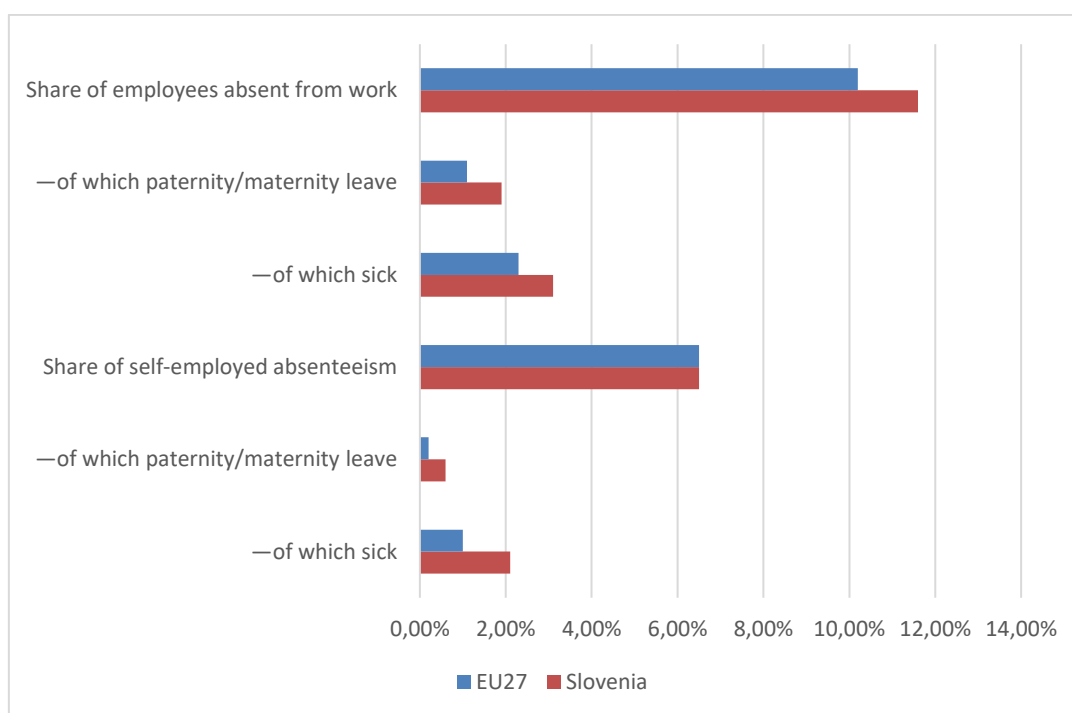


Source: Eurostat — LFS

<sup>9</sup> Low-wage earners are employees whose earnings do not exceed two thirds of the median gross hourly rate.

Absence from work due to parental leave was more common among employees than the self-employed in 2019, both in Slovenia and in the EU (Figure 9). The same applies to sick leave. Sickness was a more frequent reason for absence from work than parenthood in both groups of working people.

Figure 9 Absence from work in 2019 for employees and self-employed people

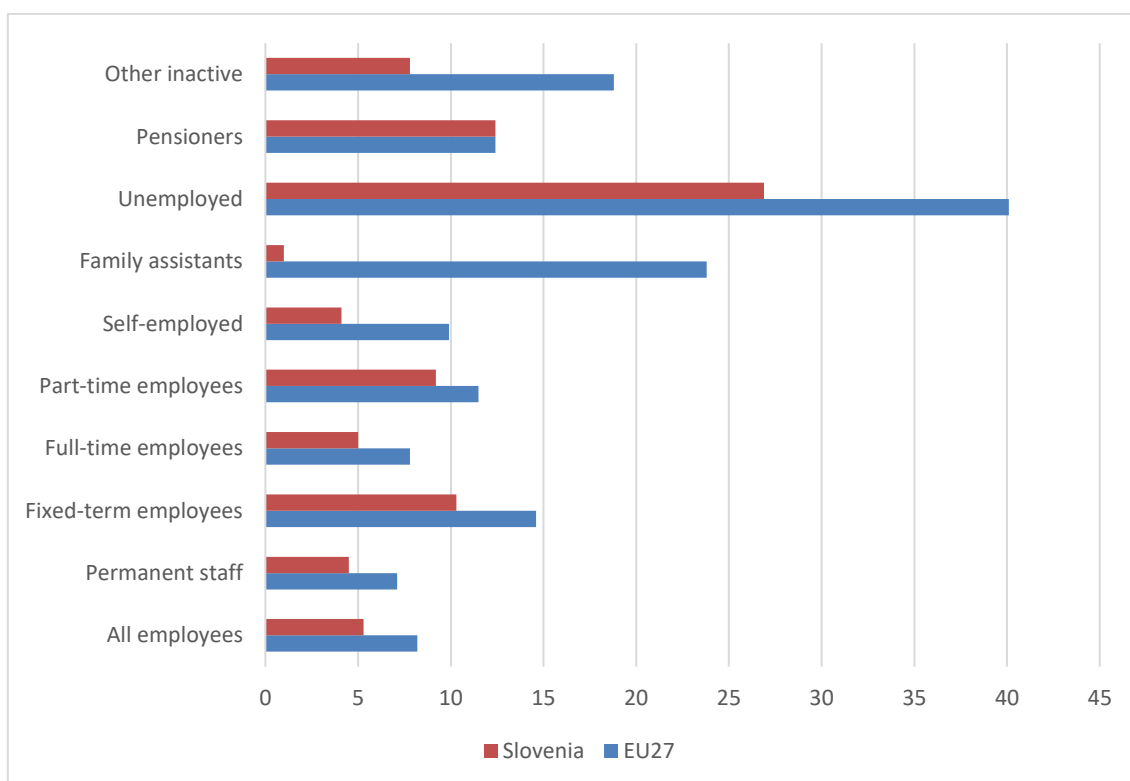


Source: Eurostat — LFS

Various indicators show that people in the different groups of non-standard employment are more dependent on social transfers and have a relatively lower income and a higher risk of unemployment, despite being formally covered by the same social security rights. The reasons for this lie outside the remit of this statistical survey and should be investigated taking into account the occupation, level of education, etc.

In 2018 the likelihood of material or social deprivation was higher for unemployed persons and for employees in non-standard forms of employment, mainly for workers on a fixed-term contract (10.3%) and part-time workers (9.2%). The proportion of self-employed workers suffering material and social deprivation (4.1%) was actually lower than for workers on an open-ended contract (4.5%). The proportion for self-employed workers in Slovenia was also significantly lower than in the EU, where it is 9.9% (Figure 10).

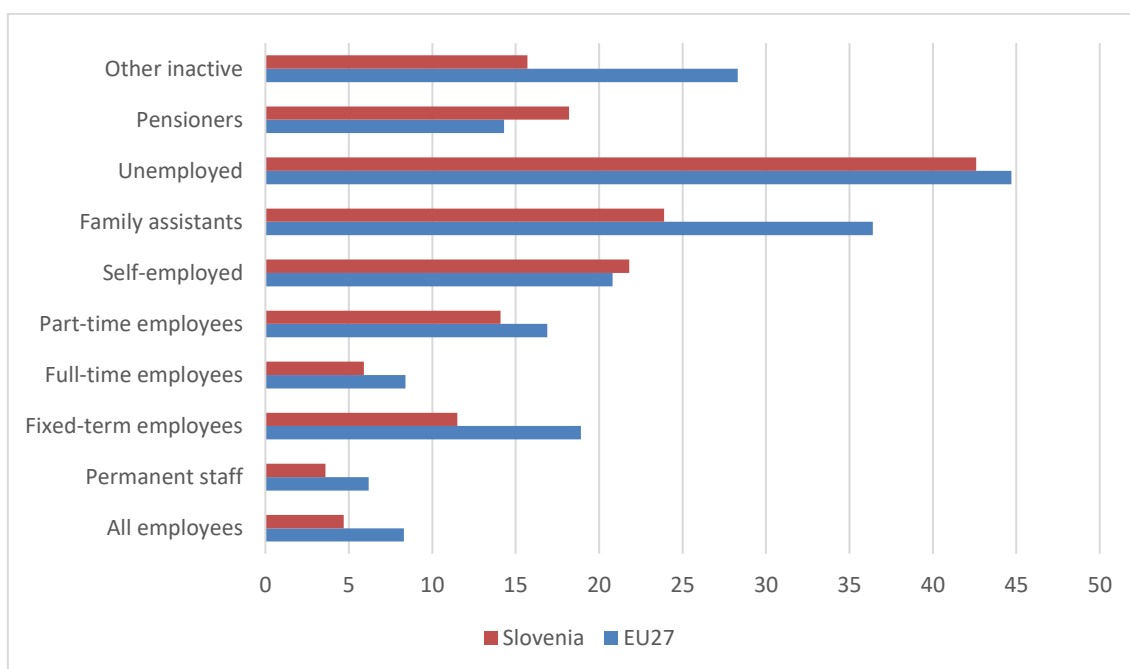
Figure 10 Material and social deprivation rates in 2018, by type of activity, in %



Source: Eurostat, SILC.

The at-risk-of-poverty rate was highest for the unemployed in both Slovenia and the EU in 2019 (Figure 11). Unlike material and social deprivation, the at-risk-of-poverty rate among non-standard forms of work is high among family helpers and the self-employed. The at-risk-of-poverty rate for the self-employed was 21.8% in 2018, slightly above the EU average. The at-risk-of-poverty rate was higher for all non-standard forms of employment than for standard employment, both in Slovenia and the EU.

Figure 11 At-risk-of-poverty rate after social transfers, in 2018, by type of activity, in %



Source: Eurostat, EU-SILC.

### Employed population according to Statistical Office registers

According to the registers of the Slovenian Statistical Office (SORS), there were just under 806 000 employees and around 96 000 self-employed people in Slovenia in recent months.

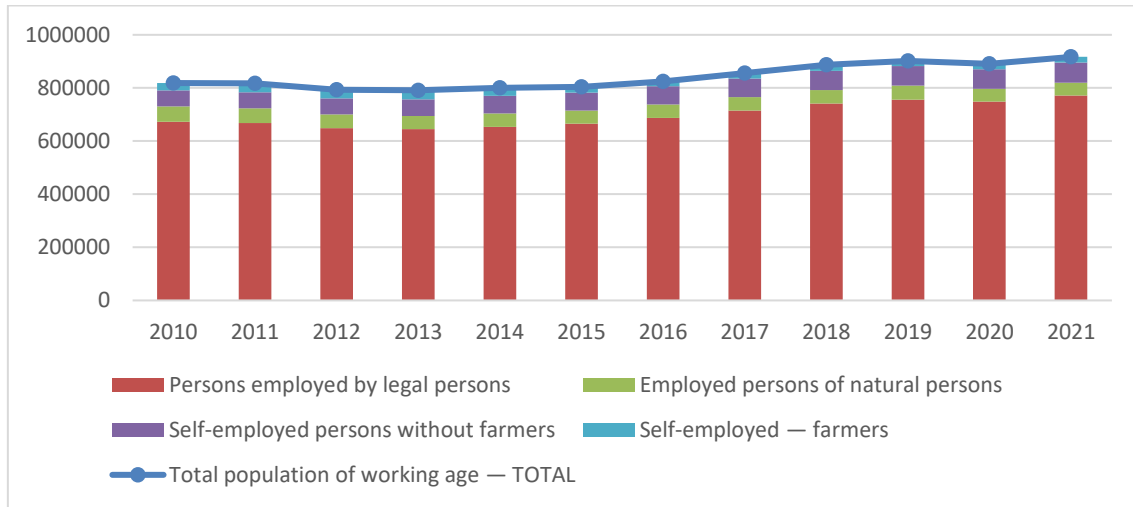
Figure 12 Monthly fluctuations in the number of employees and self-employed people



Source: SORS

Most of the employed population are employed by legal persons, followed by self-employed people excluding farmers, and employees of natural persons. The smallest group is self-employed farmers (Figure 13).

Figure 13 Employed population by employment status,<sup>10</sup> annual data



Source: SORS

### Formal and effective social insurance coverage

Employees and self-employed people are formally covered by mandatory social insurance, but in certain cases they are not entitled to benefits when a risk materialises due to the previous period of insurance required. Employees and self-employed people must have been insured for at least 10 months during the previous two years in order to be eligible for unemployment benefit. In July 2021, around 48 000 employees – 5.9% of all employees (including posted workers) – did not qualify for unemployment benefit, including more than 36 000 workers on fixed-term contracts. The percentage in particular groups is highest for employees on fixed-term contracts (21.6%), but only 1.8% for employees on open-ended contracts. The number of self-employed people who did not fulfil this condition was 2 600, i.e. 3.0% of all self-employed people excluding farmers (Figure 14).

<sup>10</sup> Employees are persons who:

- are employed by a legal person (enterprise, company, public body, other organisation) or a branch of a foreign company; have been elected or appointed to perform public or social functions; are volunteer soldiers or owners of enterprises who are managers and who are not insured under any other heading;
- work for a natural person, i.e. a sole trader, a person exercising a professional activity as sole or main occupation, or a person who uses supplementary work performed by other people.

Self-employed persons are persons who:

- are natural persons engaged in an economic or gainful activity (sole traders);
- persons exercising a professional activity as sole or main occupation (e.g. lawyers, independent researchers, clergy, etc.) and foster parents;
- farmers.

Figure 14 Employed population (including seconded workers, excluding farmers as per the Statistical Register of Agricultural Holdings) who have worked for less than 10 months in the previous two years, broken down by type of employment, July 2021



Source:

SORS

### Recipients of income under civil-law contracts

According to the Financial Administration of the Republic of Slovenia (hereinafter 'FURS') the number of recipients of an income under civil-law contracts who were not employed, self-employed or retired (for the entire year) and who received at least two payments of income in the calendar year concerned amounting to a total of at least twice the gross minimum wage (€ 1 773.26 in 2019 and € 1 881.16 in 2020) was 728 in 2019 and 526 in 2020 (Table 1). In 2020, the average annual income of these persons under civil-law contracts was € 7 788.

Table 1 Recipients of income under civil-law contracts

	2019	2020
<b>Number of different recipients</b>	728	526
<b>Average per recipient</b>	€ 7 396	€ 7 788
<b>Number of different payers</b>	543	416

Source: FURS

## 6. Gaps in social protection for different forms of work

The MAPA survey identified various types of potential gaps in access to a particular kind of social protection, which are set out in the survey's findings. The way in which potential measures proposed by the survey would fit into existing legislation is shown, underpinned by theory, comparative law and empirical results from all stages of the survey. The proposals for action must therefore be seen in the overall context of the survey and the arguments and explanations set out therein. Once a set of measures has been selected and developed, the proposals will have to be further evaluated in terms of the impact on the individual (legal and social aspects), specific entities and the overall labour market (micro- and macro-economic impact) and society as a whole (sociological aspect).



*Table 2 Overview of possible gaps in access to the various components of social protection (MAPA survey)*

<b>Form of work</b>	<b>Risk or gap identified</b>
SELF-EMPLOYED	Payment of contributions and ineligibility for social security benefits in the case of outstanding contributions
	Loss of income during temporary incapacity for work due to injury or illness for the first 30 days, or for the first 20 days (since the adoption of ZZVZZ-R and ZDR-1C, published in Official Gazette of the Republic of Slovenia No 15/22)
	Determination of the insurance contributions base of the self-employed, taking into account the fact that a significant majority of such people pay contributions on the minimum base, although their income varies considerably.
OTHER LEGAL RELATIONSHIP	Inclusion in unemployment insurance, parental protection insurance and health insurance on the basis of work carried out in another legal relationship
NON-STANDARD EMPLOYMENT CONTRACT	Access to social security rights (failure to fulfil the conditions for entitlement)
	Access to pension and disability insurance rights on a pro rata basis with respect to full working time
	Access to unemployment insurance rights in the event of transition from full-time to part-time employment
BOGUS SELF-EMPLOYED PERSONS AND ECONOMICALLY DEPENDENT PERSONS	Definition of the legal basis for inclusion in social insurance

## **7. Direct inspection measures in place to address gaps in social protection in different forms of work**

### **7.1. Addressing gaps in different forms of work**

In 2016, the MDDSZ sought to tackle the increase in atypical forms of work and their negative impact, as well as any resulting gaps in access to social protection, through the document entitled 'Towards Decent Work'. The aim of the document was to stimulate debate and to examine the causes and consequences of the increase in atypical forms of work and to produce a set of possible measures in this area to inform further debate among experts and social dialogue.

In addition, an Expert Working Group of the Economic and Social Council (hereafter 'ESS') was set up to examine the document and to draw up suitable measures. On the basis of that document, the Working Group conducted an intensive dialogue between experts and social dialogue in 2016. In that Group the MDDSZ and the social partners presented numerous proposals for amendments to the Labour Inspection Act<sup>11</sup> (ZID-1) which could help, directly or indirectly, to reduce lawful or unlawful use of atypical forms of work and its negative consequences for workers, including additional measures to be taken by the labour inspector upon the discovery of unlawful use of atypical forms of work, and higher penalties for such violations.

<sup>11</sup> Labour Inspection Act (UL RS Nos 19/14 and 55/17)

On the basis of the examination of the 'Towards Decent Work' document by the ESS Expert Working Group, the ESS Negotiating Group on amending labour law was set up on 21 November 2016 and continued to examine the proposals for amendments to ZID-1 through limited but more focused work. On 21 November 2016, the MDDSZ issued a proposal for amendments to ZID-1 for public debate. The proposed amendments were designed to make the work of the Labour Inspectorate of the Republic of Slovenia more effective and to improve legal certainty for employees when work is carried out on the basis of civil-law contracts that constitute an employment relationship.

## **7.2. Inspection measure to tackle unlawful use of atypical forms of work more effectively**

In terms of amending legislation, a key measure taken on the basis of the 'Towards Decent Work' document was the amendment<sup>12</sup> of ZID-1, which was adopted by the National Assembly at its session on 26 September 2017.

In order to increase the labour law protection afforded to workers in less secure forms of work, the provision of the new Article 19(2) ZID-1, and the following provisions, give concrete expression to the statutory rules governing the presumption of the existence of an employment relationship up to the stage when the inspected liable entity must deliver the employment contract to the worker in response to the labour inspector's findings, since all the legally defined conditions for the existence of an employment relationship have been met. This is one of the ways of remedying the irregularities detected, which is done through an administrative decision issued by the labour inspector.

When the labour inspector issues a decision pursuant to Article 19(1)(6) ZID-1<sup>13</sup>, it does so on the basis of findings that work is being carried out at the inspected liable entity on the basis of civil-law contracts in breach of the Employment Relationships Act<sup>14</sup> (ZDR-1). Article 13(2) ZDR-1 provides that where, in accordance with Article 4, in conjunction with Articles 22 and 54, of that Act, an employment relationship exists, work may not be carried out on the basis of civil-law contracts, except in the cases provided for by law. Consequently, where the characteristics of an employment relationship under Article 4 ZDR-1 exist — i.e. voluntary, continuous work in person, in return for payment, in an employer's organised work process, in a relationship of subordination in the sense of instructions being issued, and supervision being performed, by the employer — whether the relationship is open-ended or of a fixed duration (Article 54 ZDR-1), account being taken of the conditions to be met for concluding an employment contract (Article 22 ZDR-1), work may not be performed on the basis of civil-law contracts, except in the cases provided for by law. Article 18 ZDR-1 also provides that, in the event of a dispute as to the existence of an employment

---

<sup>12</sup>Act amending the Labour Inspection Act (ZID-1A) (UL RS No 55/17)

<sup>13</sup> Article 19 ZID-1

(Prohibition decision)

(1) An inspector may adopt a decision prohibiting the performance of workers' work or the work process or the use of work resources until irregularities have been rectified if an inspection reveals:

1. an imminent danger to the lives of workers;
2. that the employer has enabled a foreign national or a stateless person to work contrary to the rules governing the employment of foreign nationals;
3. that the employer or user undertaking to which posted workers have been sent, in accordance with the rules governing employment relationships and the labour market, by an employer whose business is the hiring out of workers, has allowed a worker to work in breach of the rules governing the labour market;
4. undeclared employment, where separate regulations give the labour inspectorate competence [for such matters];
5. the labour of children under 15 years of age in breach of the regulations governing child labour;
6. work being carried out under a civil-law contract in breach of the law governing employment relationships.

<sup>14</sup> Employment Relationship Act (UL RS Nos 21/13, 78/13 — corr., 47/15 — ZZSDT, 33/16 — PZ-F, 52/16, 15/17 — Const. Court Decision, — ZPosS, 81/19, 203/20 — ZIUPOPDVE and 119/21 — ZČmIS-A).

relationship between an employee and an employer, an employment relationship is presumed to exist if the characteristics of an employment relationship exist.

By decision pursuant to Article 19(6) ZID-1, the labour inspector prohibits the performance of certain work on the basis of civil-law contracts until the irregularity has been rectified. The liable entity may remedy the irregularity in two ways — by ensuring that the person whose employment relationship was found to contain irregularities is not used for the performance of work or in the work process — or by concluding an employment contract with the person concerned if the characteristics of an employment relationship exist. The new rules thus spell out that an irregularity can be rectified by the liable entity giving the worker an employment contract, which must comply with ZDR-1. The written employment contract must correspond to the established factual situation, account also being taken, in particular, of Article 31 ZDR-1 regarding the components of such a contract. At the same time, the contract must define the remuneration as appropriate for the type, extent and quality of such work, taking into account work in similar jobs for the employer, the collective agreement and general acts binding on the liable entity.

The labour inspector's measure itself does not create a contractual employment relationship, but imposes an obligation on the employer to supply the employee with an employment contract that meets the requirements within three working days of the finding. The employment contract is to be delivered, irrespective of the person's status, since the irregularities found are linked not to the person's particular status but solely to the circumstances of the performance of the work (determination of the existence of the characteristics of an employment relationship). The subsequent conclusion or refusal of such a contract will, however, depend on the willingness of the worker in respect of whom the irregularity was established, since the worker has the discretion to refuse an employment contract and stop working for the liable entity. If an employment contract that fails to meet the requirements is supplied, the worker also has the possibility to refuse to conclude the contract of employment and to claim their rights through the courts.

Given the variety of forms of work performed under civil-law contracts, it should be made clear that the establishment of an employment relationship by means of an employment contract does not restrict workers from carrying out work on the basis of civil-law contracts — within the current legal framework, it goes without saying — since the legislation allows, for example, the possibility of having an employment relationship and being self-employed or having an employment relationship and concluding other civil-law contracts, and, last but not least, work in an employment relationship does not, as a rule, preclude the status of student or the possibility of representing a commercial company, for example.

The measure put in place ensures greater legal certainty for employees in cases of unlawful use of different legal bases for carrying out work, where an employment contract should have been concluded, thus reducing the gap in access to social protection, since it aims to ensure full social protection.

### **7.3. Work of the Labour Inspectorate of the Republic of Slovenia**

The agenda of the Slovenian Labour Inspectorate (IRSD) is an important strategic document, drawn up by the IRSD each year, in which it defines the priority areas for inspection within a specified time period, the planned targeted controls and other activities.

For 2021, the IRSD has already stated that, when carrying out inspections, it will pay particular attention to precarious forms of work, which may exist, for example, in the context of online

platforms, which are becoming increasingly widespread in Slovenia both for the provision of services and for the performance of work. The agenda was drawn up on the assumption of increasing use of online services offered by platforms, partly due to the current epidemiological situation. Precarious forms of work continue to be a problem in practice. Employers still choose to use them quite frequently, thus reducing workers' labour and social rights. The entire competence of the IRSD in this area is based on Article 13(2) ZDR-1, under which work may not be carried out on the basis of civil-law contracts if the characteristics of an employment relationship exist in accordance with Article 4, in conjunction with Articles 22 and 54, of that Act, except in the cases provided for by law (for example temporary and occasional work by pensioners).

The Slovenian Labour Inspectorate considers that the number of infringements which it detects does not reflect the real extent of this phenomenon. It should be borne in mind that the detection of such infringements is a rather time-consuming and complex process, as they often concern a rather large number of workers and it is necessary to identify and demonstrate the existence of each of the characteristics of an employment relationship separately for each worker. At the same time, care must also be taken to establish whether the post concerned has been included in a job classification or whether there are reasons for concluding a fixed-term contract.

#### **7.4. Number of measures imposed**

The number of measures imposed under Article 19(2) ZID-1, by year, is as follows:

- 2017: 3 (the amendment to the law, introducing the above-mentioned change, entered into force at the end of October 2017);
- 2018: 12;
- 2019: 9;
- 2020: 9.

## 8. Conclusion

### Slovenia notes that:

1. in Slovenia, all workers in an employment relationship, regardless of the form of that relationship, are entitled to all the areas of social protection referred to in the Recommendation, and formal coverage exists for self-employed persons by way of mandatory inclusion in both types of formal coverage for self-employed persons;
2. the statistics demonstrate:
  - a. that the number of people in standard employment in Slovenia is relatively high (71% of the employed population in 2019);
  - b. in comparison with the EU average, there are no significant differences in the distribution of people between the various non-standard forms of work; only the share of part-time workers with an open-ended permanent contract is markedly lower in Slovenia than in the EU;
  - c. relative to the EU average, there is a high proportion of dependent self-employed people, who work mainly for one client;
  - d. the at-risk-of-poverty rate is higher for people in non-standard forms of employment;
  - e. effective coverage with unemployment insurance and parental protection insurance is lowest for employees on fixed-term contracts, as over 20% of them have no insurance rights;
  - f. the number of people whose primary income comes from civil-law contracts is low (526 people in 2020);
3. Slovenia launched the research project entitled 'MAPA: Multidisciplinary analysis of precarious work — legal, economic, social and health care aspects' in 2017. That project is based on a multidisciplinary approach to all stages of research and presents the results of a new, unique empirical analysis of the situation on the Slovenian labour market. The researchers have used a comprehensive, multidisciplinary approach to identify any gaps in the various components of protection in the case of insecure forms of work and to draw up possible proposals for limiting the negative effects of precarious work on the individual and on society as a whole;
4. The conditions are in place to make the work of the Labour Inspectorate more effective and to improve legal certainty for employees when work is carried out on the basis of civil-law contracts that constitute an employment relationship.

### On that basis:

1. Slovenia will ask the ESS to develop measures in the social dialogue to reduce the gaps in access to social protection for workers in non-standard forms of employment and the self-employed, building on existing social protection coverage, the statistics provided and the findings of the MAPA project, and
2. in the area of inspection, Slovenia will continue to pay particular attention to the use of atypical, civil-law and other less secure forms of work, taking account of the Labour Inspectorate's agenda, and to deal with them through the powers of the authorities concerned.