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Working in and towards Poverty: A Reflection on the Wage Issue and In-Work Poverty in South Africa

Lorrane Mukondi Nesongozhe, Mashudu Monica Mulaudzi *

Abstract: This paper explores the issue of in-work poverty and the gender wage gap in South Africa, particularly focusing on the challenges faced by women in the workforce. The purpose of this study is to analysis the impact of the minimum wage on female employees and in-work poverty. Despite being employed, women are more likely to live in poverty compared to men due to factors such as undervaluation of women's work, occupational segregation, and the prevalence of low-wage and informal employment.

Keywords: *In-work poverty; minimum wage; wage gap; occupational segregation.*

1. Introduction

The phenomenon of in-work poverty, also known as working poverty, is growing drastically globally. In South Africa, there is a significant wage gap issue identified which could possibly contribute to in-work poverty. The National Minimum Wage Act 9 of 2018 was implemented with the aim of improving working conditions and reducing poverty among employees, particularly those who are most vulnerable. Despite the enactment of the National Minimum Wage Act, in-work poverty remains a pervasive issue that affects individuals and families around in South Africa. In-work poverty is particularly pronounced, with many employees struggling to make ends meet despite being employed. South Africa, as one of the largest economies in Africa, is not exempt from this issue. In-work poverty may be defined as a

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situation where individuals who are employed do not earn enough income to lift themselves or their families above the poverty line.¹

To truly understand the gravity of in-work poverty in South Africa, it is essential to consider the broader socioeconomic context of the country. Despite numerous advancements since the end of apartheid, South Africa remains plagued by income inequality, unemployment, and a lack of inclusive economic growth. These factors have contributed to persistent poverty and limited social mobility, trapping employees in precarious financial situations.

This article will examine the impact of the national minimum wage on in-work poverty in South Africa. It will provide an overview of in-work poverty in the country, discuss the key features of the national minimum wage policy, identify factors contributing to in-work poverty, present empirical evidence on its impact, explore critiques and challenges related to its implementation for employees, evaluate its effectiveness based on evidence presented, and propose necessary adjustments or complementary policies.

2. In-Work Poverty in South Africa

The ILO developed the concept of working poverty referring to employees who work but do not earn enough to lift themselves and their families above the US\$1 or 2 a day poverty line.² The working poor can be interpreted as a first approximation of people who work in the informal economy with very low earnings. It is important to note that, by definition, a person is counted as working poor only if that person is unable to lift himself or herself and his or her family above the poverty threshold.³ This means that somebody who earns only 50 cents a day would not be considered as working poor if somebody else in the family earns enough to make sure that each family member lives on more than US\$1 a day. Conversely, somebody might earn as much as, for example, US\$5 a day but with a family consisting of, say, 10 members (9 of them not working) each member would be living on less than US\$1 a day. Such a person would still be counted as working poor. Finally, including the whole family in the concept of working poverty ensures that a rich young person in the developing world who has just started work life and works

¹ N. Gündoğan, M. Kemal Biçerli and U. Aydın, *The Working Poor: A Comparative Analysis*, Munich Personal RePEc Archive 2005, 5096, p 2.

² World Employment Report 2004-05, *Employment, productivity and poverty reduction* Geneva, ILO, 2005, pp 26 – 27.

³ World Employment Report 2004-05, *Employment, productivity and poverty reduction* Geneva, ILO, 2005, pp 26 – 27.

without remuneration in order to gain work experience is not considered to be working poor.⁴

Unlike many other countries, South Africa is different because of its by its history of Apartheid, in which race-based policies resulted in vastly inferior education and labour market opportunities for African, Coloured and Asian/Indian individuals.⁵ Policies such as, the Industrial Conciliation Act No 11 of 1994, resulted in exceptionally high levels of poverty and inequality constructed along racial lines at the time of the transition to democracy in 1994, motivating the newly elected democratic government to make poverty alleviation a key focus of economic policy.⁶

As a result of such policies, one of the main causes of in-work poverty in South Africa is the inadequate wages paid to many employees. The minimum wage in the country is often insufficient to meet basic needs, leaving employees struggling to afford food, housing, education, and healthcare. This is particularly true for those working in informal sectors, such as domestic work, which make up a significant portion of the workforce. Additionally, women and vulnerable groups, such as migrants and the disabled, are more likely to be affected by in-work poverty, highlighting the intersectionality of this issue.⁷ In-work poverty considers factors such as income levels, household composition, and living expenses.⁸ Data indicates that females constitute a significant portion of those affected by in-work poverty.⁹ Female employees often face unique challenges when it comes to in-work poverty due to various factors such as gender discrimination and unequal pay.¹⁰

⁴ World Employment Report 2004-05, *Employment, productivity and poverty reduction* Geneva, ILO, 2005, pp 26 – 27.

⁵ K. Lilenstein, I. Woolard and M. Leibbrandt, *In-Work Poverty in South Africa: The Impact of Income Sharing in the Presence of High Unemployment*, Southern Africa Labour and Development Research Unit, University of Cape Town, 2016, p 1.

⁶ K. Lilenstein, I. Woolard and M. Leibbrandt, *In-Work Poverty in South Africa: The Impact of Income Sharing in the Presence of High Unemployment*, Southern Africa Labour and Development Research Unit, University of Cape Town, 2016, p1.

⁷ H. Bhorat, A Lilenstein and B Stanwix, *The Impact of the National Minimum Wage in South Africa: Early Quantitative Evidence*, Development Policy Research Unit (DPRU), University of Cape Town, 2020, p 3.

⁸ G. Murwirapachena, K. Sibanda, *Exploring the Incidents Of Strikes In Post-Apartheid South Africa*, International Business & Economics Research Journal (IBER), 2014, vol. 13, no. 3, p 556.

⁹ H. Kabir, M. Maple, M.D. Islam, K. Usher, *The Paradoxical Impacts of the Minimum Wage Implementation on Ready-made Garment (RMG) Workers: A Qualitative Study*, The Indian Journal of Labour Economics, 2022, vol. 65 no.2, pp 545–569.

¹⁰ S. Neunsinger, *Translocal Activism and the Implementation of Equal Remuneration for Men and Women: The Case of the South African Textile Industry, 1980–1987*, International Review of Social History, 2019, vol. 64, no. 1, pp 37–72.

Another contributing factor to in-work poverty is the prevalence of low-skilled jobs. Many individuals find themselves trapped in low-paying jobs due to limited access to quality education and skills development opportunities.¹¹ This perpetuates a cycle of poverty, as these employees are unable to secure better-paying positions or advance within their industries. The lack of upward mobility exacerbates the problem and limits the potential for economic growth at both the individual and national levels.¹²

High unemployment rate is also a major contributes factor to in-work poverty. South Africa has struggled with high levels of unemployment for years, particularly among the youth. This leads to intense competition for available jobs, driving down wages and leaving many employees economically vulnerable. When jobs are scarce, employees are often more willing to accept lower wages and poor working conditions due to the fear of being unemployed. This not only perpetuates in-work poverty but also deepens social inequalities.¹³

To address this issue effectively, it is crucial to implement policies that promote fair wages, improve education and skills training, and support the growth of higher-paying sectors. By taking a comprehensive approach, South Africa can create a more inclusive society where individuals are not trapped in poverty despite being employed.

3. Minimum Wage in South Africa

Approximately 90% of the 187 member states of the ILO have implemented some form of minimum wage system. There is a wide variety of minimum wage systems in different countries; some are derived from a single national minimum wage, while others are based on sectoral wages.¹⁴ Setting a minimum wage in South Africa has not easy, post-apartheid, there has been little

¹¹ H. Bhorat, A Lilenstein and B Stanwix, *The Impact of the National Minimum Wage in South Africa: Early Quantitative Evidence*, Development Policy Research Unit (DPRU), University of Cape Town, 2020, p 3.

¹² H. Bhorat, A Lilenstein and B Stanwix, *The Impact of the National Minimum Wage in South Africa: Early Quantitative Evidence*, Development Policy Research Unit (DPRU), University of Cape Town, 2020, p 3.

¹³ H. Bhorat, A Lilenstein and B Stanwix, *The Impact of the National Minimum Wage in South Africa: Early Quantitative Evidence*, Development Policy Research Unit (DPRU), University of Cape Town, 2020, p 3.

¹⁴ Global Wage Report 2020–21: *Wages and minimum wages in the time of COVID-19* International Labour Office – Geneva: ILO, 2020, p 6.

improvements in poverty levels and inequality levels have exacerbated. Furthermore, South Africa has been experiencing weak economic growth.¹⁵ The National Minimum Wage Act No 9 of 2018 was introduced in South Africa in 2018, with the objective of reducing wage inequality and improving the standard of living for low-income employees. The minimum wage is currently set at R 25,42 South African per hour, which is equivalent to approximately \$1.40. Arguably the outcry of the increase in Bantu wages resonates with the modern-day, outcry of an increase in the ‘minimum wages.’ This is because a large number of African employees are still located in industries that require low skills. Unfortunately, in the 1950’s the government was against the notion of minimum wages because the economy would not supposedly bear the burden. Among the reasons against the increase in the Bantu wages were difficulty in implementation especially for the agricultural sector, infant industries and the increase in Bantu wages would also increase European wages and other reasons. Dating from the 1950’s:

‘Mrs. de Gruchy places the minimum requirements of a family of five at R48.32 a month and finds the average actual amount spent in December 1956 and January 1957 to have been R41.00, giving an average shortfall, at that time, of R7.32. In Pretoria “the minimum financial requirement of households of five in different positions ranged from R33.54 to R42.99, whereas the average amount spent was R39.47, which resulted in a shortfall of R3.52 per month at the one end and a surplus of R5.93 at the other.’¹⁶

The introduction of the National Minimum Wage Act aimed at addressing these issues by setting a legal floor for wages. The National Minimum Wage Act established a single mandatory minimum wage for all sectors of employment in South Africa.¹⁷ Its objective was not only to improve working conditions but also to reduce inequality and alleviate poverty among employees.¹⁸ By examining its impact specifically on female employees, we can gain insights into whether this policy has been effective in combating in-work poverty.

¹⁵ M. Leibbrandt, I. Woolard, H. McEwen, and C. Koep, *Employment and Inequality Outcomes in South Africa*. Southern African Labour and Development Research Unit(SALDRU) and the School of Economics, University of Cape Town, Western Cape, 2010, p 21.

¹⁶ J. Lazer, *Conformity and Conflict: Afrikaner Nationalist Politics in South Africa: 1948-1961*, Balliol College Oxford University Michaelmas Term, 1987, 387 chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.sahistory.org.za/sites/default/files/file%20uploads%20/conformity_and_conflict_afrikaner_nationalist_politics_in_south_africa_by_john_lazar_1948_-_1961.pdf (accessed July 3, 2023).

¹⁷ National Minimum Wage Act No 9 of 2018 Preamble.

¹⁸ T.Y. Chitaka, T. Moyo, K. Gihring, and C. Schenck, *The myth of livelihoods through urban mining: The case of e-waste pickers in Cape Town*, South African Journal of Science, 2022, Vol 118, p 5.

The implementation of a national minimum wage policy is driven by several rationales such as reducing income inequality and protecting vulnerable employees from exploitation.¹⁹ In South Africa specifically, the National Minimum Wage Act aims to address long-standing disparities and improve living standards for all employees. Research has shown that women in South Africa are disproportionately affected by poverty, with higher rates of unemployment and lower wages compared to their male counterparts.²⁰ The implementation of the national minimum wage act has the potential to alleviate this disparity by ensuring a baseline level of income for female employees.

The implementation of the national minimum wage act has had both positive and negative effects employees. On one hand, it has provided them with increased bargaining power and protection against exploitative labor practices.²¹ By setting a standardized minimum wage across sectors, women are less likely to be subjected to discriminatory pay practices based on their gender. Additionally, higher wages can help lift women out of poverty or prevent them from falling into it.

However, there are also concerns that the national minimum wage may have unintended consequences that exacerbate rather than alleviate in-work poverty. For example, some argue that higher labour costs resulting from the minimum wage may lead to job losses or reduced working hours, particularly in industries that heavily rely on low-skilled labor.²² This could potentially worsen the economic situation for employees and their families, pushing them further into poverty.²³ The impact of minimum wage laws, may result in employers reducing employees working hours per day in order to pay the higher wages specified by the Minimum Wage Act, or to comply with the maximum number of weekly hours set out by the respective sectoral law.²⁴

¹⁹ R. Rosiński R, *The minimum wage in the national economy: reasons and changes in Poland*, *Ekonomia i Prawo*, 2021 20(2), pp 426 - 427.

²⁰ R.S Masango, *Factors that Negatively Affect the Implementation of the National Minimum Wage in South Africa*, *Administratio Publica* 68, 2020, vol. 28 no. 1, p 68.

²¹ R.S Masango, *Factors that Negatively Affect the Implementation of the National Minimum Wage in South Africa*, *Administratio Publica* 68, 2020, vol. 28 no. 1, p 75.

²² H. Bhorat, R. Kanbur and N. Mayet, *The impact of sectoral minimum wage laws on employment, wages, and hours of work in South Africa*, *IZA Journal of Labor & Development*, 2013, vol. 2 no. 1, p. 22. Earlier studies had suggested that minimum wages do not affect employment. However, Bhorate *et al* proved that they do. Also see T. Hertz, *Have Minimum Wages Benefited South Africa's Domestic Service Workers?*, Development Policy Research Unit (DPRU), University of Cape Town, Working Paper 05/99, p.8.

²³ R.S Masango, *Factors that Negatively Affect the Implementation of the National Minimum Wage in South Africa*, *Administratio Publica* 68, 2020, vol. 28 no. 1, p 77.

²⁴ H. Bhorat, R. Kanbur and N. Mayet, *The impact of sectoral minimum wage laws on employment, wages, and hours of work in South Africa*, *IZA Journal of Labor & Development*, 2013, vol. 2 no. 1, p. 20.

The overall impact of the National Minimum Wage Act on in-work poverty in South Africa is complex and multifaceted. While it has undoubtedly improved the wages and working conditions of many employees, there are limitations to its effectiveness. For instance, the act does not cover informal sector employees who make up a significant portion of the workforce in South Africa.²⁵ This means that a substantial number of individuals continue to struggle with low incomes and inadequate social protection.

When comparing South Africa's approach to addressing in-work poverty with European policies, similarities and differences arise. Both regions recognize the need for minimum wages to combat poverty among employees. However, European countries often have more comprehensive social welfare systems that provide additional support to low-income individuals and families.²⁶ This highlights the importance of considering complementary policies alongside minimum wage legislation.²⁷

Case studies and examples from South Africa and Europe can provide valuable insights into successful initiatives implemented to combat in-work poverty. For instance, programs that combine minimum wage legislation with targeted social assistance measures have shown promising results in reducing poverty rates among employees.²⁸ By analyzing these experiences, policymakers can learn valuable lessons about the design and implementation of effective interventions.

The National Minimum Wage Act has had a significant impact on employees' experience of in-work poverty in South Africa. While it has provided some protections and improved wages, there are also concerns about potential unintended consequences. To address this issue comprehensively, it is essential to consider complementary policies such as social welfare programs and skill development initiatives. By learning from both South African and European experiences, policymakers can develop more effective strategies for combating in-work poverty among female employees. Ongoing efforts are crucial to

²⁵ R.S Masango, *Factors that Negatively Affect the Implementation of the National Minimum Wage in South Africa*, *Administratio Publica* 68, 2020, vol. 28 no. 1, p 77.

²⁶ S. Neunsinger, *Translocal Activism and the Implementation of Equal Remuneration for Men and Women: The Case of the South African Textile Industry, 1980–1987*, *International Review of Social History*, Sweden, 2019, vol. 64 no. 1, p 47

²⁷ S. Neunsinger, *Translocal Activism and the Implementation of Equal Remuneration for Men and Women: The Case of the South African Textile Industry, 1980–1987*, *International Review of Social History*, Sweden, 2019, vol. 64 no. 1, p 63.

²⁸S. Neunsinger, *Translocal Activism and the Implementation of Equal Remuneration for Men and Women: The Case of the South African Textile Industry, 1980–1987*, *International Review of Social History*, Sweden, 2019, vol. 64 no. 1, p 63.

ensure that progress continues to be made towards reducing inequality and improving the livelihoods of all employees.

On the one hand, the National Minimum Wage Act has led to improvements in wages for many employees who were previously earning below subsistence levels. On the other hand, it has not completely eradicated in-work poverty among females due to various factors such as gender discrimination and limited access to education or skills development. While the National Minimum Wage Act plays a crucial role in addressing in-work poverty, it is important to acknowledge that other factors contribute to employees' economic vulnerability.

Empirical studies, provided below, have provided insights into the actual impact of the national minimum wage policy on employees' income levels and poverty rates. These studies have shown mixed results, indicating that while some employees have experienced improvements in their economic well-being, others continue to face challenges.

The implementation of the National Minimum Wage Act in South Africa was a step in the right direction; however, this has come with its own challenges resulting in step backs. Some of the challenges faced include employers' financial constraints, exemptions, non-compliance, and employees' fears and lack of bargaining power.²⁹ Where employers do not comply with the National Minimum Wage Act, little has been done to enforce compliance. This has resulted in a casual nature of employment developing in the informal sector resulting in employee's reluctance to litigate against employers for poor wages, and the fear of speaking out or facing victimization.³⁰ In effort to enforce compliance, the Department of Employment and Labour in South Africa launched a hotline where employees can report cases of non-compliance relating to the national minimum wage without any cost.³¹ However, this remains ineffective. Poverty is rife in South Africa and many South Africans live below the breadline. The situation becomes dire when poverty is coupled with low wages. Due to the desperation arising from inadequate wages, individuals often accept almost any type of employment irrespective of the wage, to survive, thus being a major setback in fight in-work poverty.

²⁹ R.S Masango, *Factors that Negatively Affect the Implementation of the National Minimum Wage in South Africa*, *Administratio Publica* 68, 2020, vol. 28 no. 1, pp 72 - 79.

³⁰ R.S Masango, *Factors that Negatively Affect the Implementation of the National Minimum Wage in South Africa*, *Administratio Publica* 68, 2020, vol. 28 no. 1, pp 72 - 79.

³¹ R. Brothwell, *Government launches new hotline to report South Africans that don't pay minimum wage*, 2020, <https://businesstech.co.za/news/business/378487/government-launches-new-hotline-to-report-south-africans-that-dont-pay-minimum-wage/> (accessed May 7, 2024).

4. Gender Wage Gap in South Africa

The gender wage gap is a persistent issue across the globe and South Africa is no exception. Despite constitutional guarantees of equality, women in South Africa continue to face significant disparities in wages compared to their male counterparts. This wage gap not only undermines the principles of gender equality but also hampers economic growth and social progress.³²

The gender wage gap in South Africa has roots in historic inequalities and discriminatory labour practices, which continue to influence the present-day labour market dynamics. During apartheid, women were segregated into low-skilled, low-paying jobs, perpetuating gender disparities in wages. Understanding this historical context is crucial to comprehending the complexity of the gender wage gap and in-work poverty in South Africa.³³

The gender wage gap refers to the disparity in earnings between male and female employees, often resulting from gender-based discrimination and unequal opportunities. In South Africa, despite significant progress in gender equality, women continue to face economic disadvantages in the labor market. According to a report by the ILO, South Africa has one of the highest gender wage gaps in the world.³⁴ Data from Statistics South Africa reveals that women earn, on average, 30% less than their male counterparts.³⁵ This wage gap reflects both direct wage discrimination and the concentration of women in lower-paying occupations.

One of the primary factors contributing to the gender wage gap in South Africa is occupational segregation. Women are often concentrated in low-paying sectors, such as domestic work, retail, and childcare, where wages are considerably lower than in sectors dominated by men. Patriarchal norms and perceptions of gender roles play a significant role in perpetuating this occupational segregation, as women are often discouraged or limited in pursuing careers in male-dominated fields. Furthermore, the lack of affordable and accessible childcare facilities places an additional burden on women, limiting their ability to fully participate in higher-paying jobs.

The domestic work sector in South Africa, is female dominated. Prior to the introduction to a national minimum wage, domestic workers were struggling to

³² H. Bhorat, and S. Goga, *The Gender Wage Gap in Post-apartheid South Africa: A Reexamination*, Journal of African Economies, (2013), vol. 22 no. 5, p 827.

³³ H. Bhorat, and S. Goga, *The Gender Wage Gap in Post-apartheid South Africa: A Reexamination*, Journal of African Economies, (2013), vol. 22 no. 5, p 828.

³⁴ Global Wage Report 2018/19: What lies behind gender pay gaps International Labour Office – Geneva: ILO, 2018, p 14.

³⁵ R. Maluleke, *Inequality Trends in South Africa: A multidimensional diagnostic of inequality* / Statistics South Africa 2019, p 62.

make ends meet despite being employed, and that is still a reality currently. The introduction of the National Minimum Wage Act also saw the introduction of the Sectoral Determination 7 of the Basic Condition of Employment Act³⁶ that regulate the sector as an occupation.³⁷ The Unemployment Insurance Act 64 of 2001 as well as the Unemployment Insurance Contributions Act 4 of 2002 were put in place in order to pass the responsibility to the employer of the domestic worker by registering for the Unemployment Insurance Fund at the Department of Labour.³⁸ Despite these regulation put in place, non-compliance with these policies become persistent thus, living conditions for individuals in this sector continue to be dire. This is an indication that policies and regulations put in place to eradicate working poverty has proven to be insufficient in bettering the standard of living for individuals in this sector.³⁹

Another contributory factor is the disparity in access to education and skills development. While South Africa has made significant progress in reducing gender disparities in education, women still face barriers to pursuing higher education and acquiring the necessary skills for high-paying jobs. Limited access to quality education, as well as social and cultural norms that prioritize male education, leaves women at a disadvantage in the job market. This gap in education and skills perpetuates the wage disparity between men and women.⁴⁰ The consequences of the gender wage gap in South Africa are wide-ranging and severe. Firstly, it perpetuates gender inequality by reinforcing existing power imbalances and limiting women's economic autonomy. Women are often forced to rely on their male counterparts for financial support, undermining their ability to make independent decisions and perpetuating socio-economic disparities. Moreover, the gender wage gap hampers economic growth and productivity. Studies have shown that closing the wage gap and increasing women's participation in the labor force can boost GDP and overall societal well-being. By undervaluing the contributions of women, South Africa is not maximizing its economic potential.⁴¹

³⁶ Basic Condition of Employment Act 75 of 1997.

³⁷ L.L. Kubjana, *The Legal Protection of Domestic Workers in South Africa: A Square Peg it is (Into a Round Hole)*, *Obiter*, 2016, vol. 37 no. 3, p 558.

³⁸ L.L. Kubjana, *The Legal Protection of Domestic Workers in South Africa: A Square Peg it is (Into a Round Hole)*, *Obiter*, 2016, vol. 37 no. 3, p 558.

³⁹ L.L. Kubjana, *The Legal Protection of Domestic Workers in South Africa: A Square Peg it is (Into a Round Hole)*, *Obiter*, 2016 vol. 37 no. 3, p 558.

⁴⁰ R. Maluleke, *Inequality Trends in South Africa: A multidimensional diagnostic of inequality* / Statistics South Africa 2019, p 10.

⁴¹D. Swanepoel, *Understanding Gender Inequality” Inclusive Society Institution*, <https://drive.google.com/file/d/1-4Y5klfsYljdQ3qLkfqQZVYwLWAwTeM/view> (accessed June 20, 2023).

Addressing the gender wage gap requires a multifaceted approach. Firstly, there is a need for comprehensive legislation and policies to promote gender equality in the workplace. Enforcing stricter equal pay laws, providing incentives for companies to close the gap, and implementing gender quotas in leadership positions can help to level the playing field. Additionally, investing in quality education and skills development for girls and women is vital in breaking the cycle of inequality. This should include promoting access to science, technology, engineering, and mathematics (STEM) education, which are traditionally male-dominated fields with higher wages. Furthermore, strengthening the social protection system, including affordable childcare services, can support women in pursuing higher-paying jobs and reduce their disproportionate burden of unpaid care work.⁴²

The gender wage gap is a pressing issue in South Africa that requires immediate attention. Occupational segregation, limited access to education and skills development, as well as social and cultural norms, contribute to this disparity. The consequences are far-reaching, affecting not only women's economic empowerment but also hindering economic growth.⁴³ Occupational segregation, where women are often concentrated in sectors that offer lower wages and limited career growth opportunities.⁴⁴ Additionally, gender stereotypes and biases in hiring and promotion processes further perpetuate wage disparities. Discrimination based on gender, race, and class intersect, creating heightened challenges for women of color and those from low-income backgrounds.⁴⁵

This segmentation solidifies gender pay disparities, trapping women in low-wage employment and contributing to in-work poverty. The gender wage gap has a profound impact on in-work poverty rates in South Africa. Women, who often earn less than men for the same work, are at a higher risk of falling below the poverty line.⁴⁶ Inadequate income levels affect not only women but also their families, perpetuating a cycle of poverty and deprivation. Various factors contribute to the persistence of the gender wage gap in South Africa. These

⁴² D. Swanepoel, *Understanding Gender Inequality* Inclusive Society Institution, <https://drive.google.com/file/d/1-4Y5klfsYljdQ3qLkfQZVYwLWAwTeM/view> (accessed June 20, 2023).

⁴³ R. Maluleke, *Inequality Trends in South Africa: A multidimensional diagnostic of inequality* / Statistics South Africa 2019, p 3.

⁴⁴ H. Bhorat, and S. Goga, *The Gender Wage Gap in Post-apartheid South Africa: A Reexamination*, *Journal of African Economies*, (2013), vol. 22 no.5, p 830.

⁴⁵ H. Bhorat, and S. Goga, *The Gender Wage Gap in Post-apartheid South Africa: A Reexamination*, *Journal of African Economies*, (2013), vol. 22 no.5, p 831.

⁴⁶ H. Bhorat, and S. Goga, *The Gender Wage Gap in Post-apartheid South Africa: A Reexamination*, *Journal of African Economies*, (2013), vol. 22 no.5, p 832.

include discrimination, lack of access to quality education and training, limited bargaining power, and inadequate work-life balance provisions.

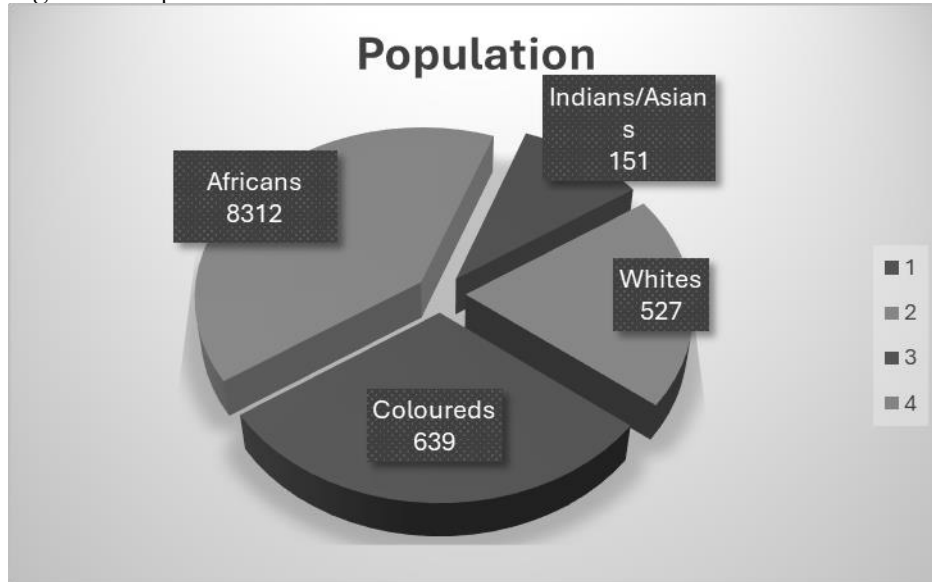
The gender wage gap has severe consequences for women's economic well-being, leading to higher rates of in-work poverty. Women, who are more likely to be paid less for equal work, are disproportionately affected by in-work poverty. This perpetuates a cycle of economic vulnerability, limiting access to education, healthcare, and other essential resources. Furthermore, the gender wage gap has intergenerational implications, as children growing up in poverty face reduced opportunities for social mobility.

The gender wage gap and in-work poverty are intertwined phenomena that limit women's economic empowerment and perpetuate social inequalities. In South Africa, where gender inequality remains a pressing issue, addressing the gender wage gap is crucial for achieving sustainable development and social justice. By implementing comprehensive policies, promoting equal opportunities, and challenging discriminatory practices, South Africa can take significant strides towards closing the gender wage gap and alleviating in-work poverty.

5. Analysis of In-work poverty

This study makes use of Household surveys that were collected by Statistics South Africa in 2021. Figure 1.1 consists of the sample size which consists of about 9629 people of which, 8312 were Africans, Coloureds were 639, Whites were 527 and the least were 151 Indians/Asians. Even though there are generally more females in South Africa, in this survey, more men participated than survey than women.

Figure 1: Population



Sources: Own elaboration, 2023.

Table 1 and figure 2 consist of the total monthly salary for the male-led household and it includes overtime, allowances, bonuses and any deductions before tax. To group the different incomes received we made use of the SARS (South African Revenue Services) monthly income deduction tables. According to the data, the highest income earned by the male gender is between R 156378+ and only 1 male gender receives a monthly salary income of R660 000. About 48 men earn over R90000. At the bottom of the food chain, 255 men earn between 100-1000 per month and the least-paid man is paid R109 per month. Most men, 1192 earn a monthly salary of between R1000-R5000.

Table 1: Wages in male-led households

Male_ranges	Male_ranges (Count All)
0 [invalid]	1638
1 000 – 5000	1192
100 - 1 000	255
105 879 - 115 978	4
115 979 - 126 078	1
126 079 - 136 178	1
136 179 - 146 278	3
14 979 - 25 078	413
146 279 - 156 378	1
156 379 +	4
25 079 - 35 178	158
35 179 - 45 278	155
45 279 - 55 378	108
5 001 - 8 000	519
55 379 - 65 478	27
65 479 - 75 578	57
75 579 - 85 678	13
8 001- 14 978	542
85 679 - 95 778	29
95 779 - 105 878	5

Source: Own elaboration, 2023.

Note: 0 (Invalid) refers to people receiving other forms of income [pensions, grants etc. other than salaries]

Figure 2: Male wages



Sources: Own elaboration, 2023.

Note: 0 (Invalid) refers to people receiving other forms of income [pensions, grants etc. other than salaries]

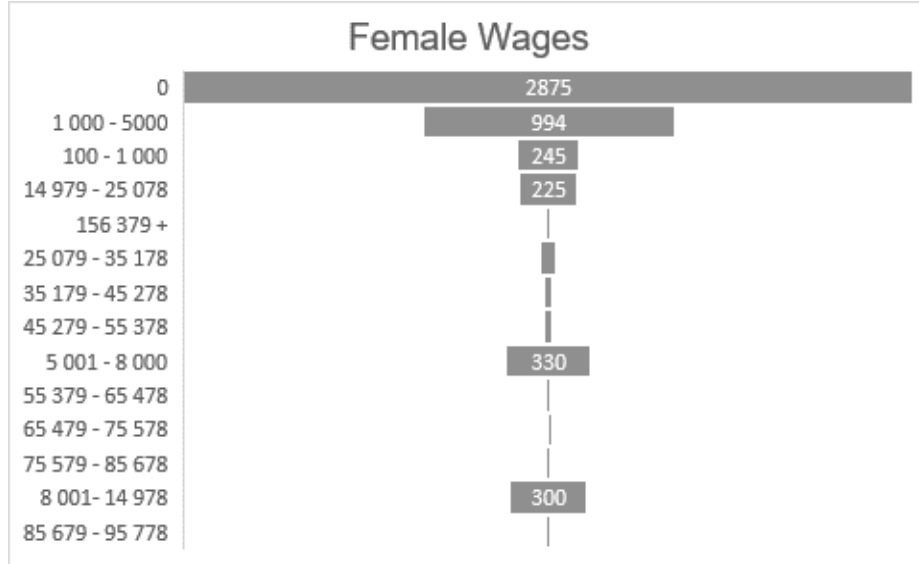
According to Table 2 and Figure 3, the most-paid female employees earn R287 139 per month and only 5 women including the most-paid female employee earn over R90000. While this is relatively lower than what the male counterpart earns, the focus area is on the lowest in the food chain. The least-paid woman earns R100 per month which is R9 lower than the male counterpart. In most cases, women earn between 1000-5000 per month. For both men and women, the question of an increase in the minimum wage is inevitable, moreover, it is becoming more apparent that most employees are working towards poverty.

Table 2: Wages in female-led households

Female ranges	Female ranges (Count All)
0	2875
1 000 – 5000	994
100 - 1 000	245
14 979 - 25 078	225
156 379 +	5
25 079 - 35 178	59
35 179 - 45 278	34
45 279 - 55 378	35
5 001 - 8 000	330
55 379 - 65 478	12
65 479 - 75 578	6
75 579 - 85 678	3
8 001- 14 978	300
85 679 - 95 778	2

Source: own elaboration, 2023.

Figure 3: Female wages

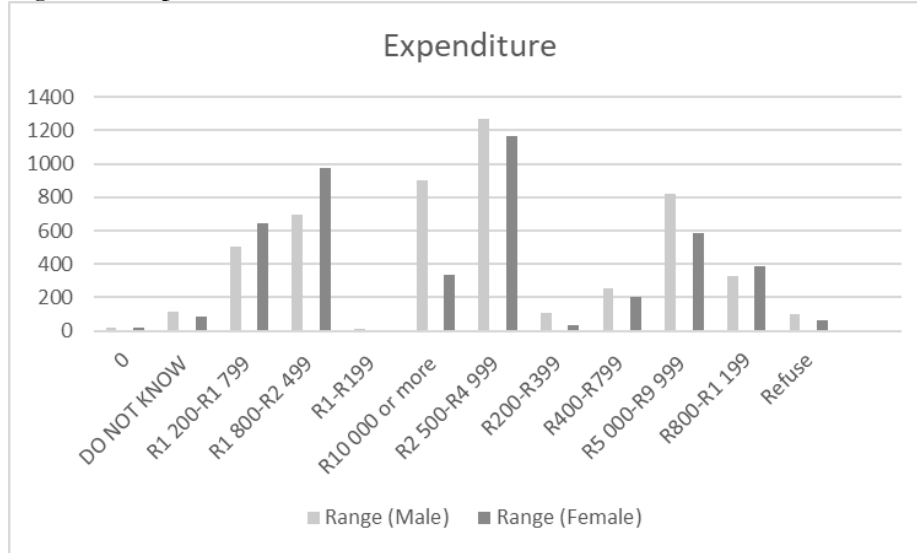


Source: own elaboration, 2023.

Figure 4 shows the expenditure of both men and women. When it comes to spending patterns, the data reveals that most men than women do not know what their monthly expenditure is. The data also shows that men spend more than women. Arguably, men may spend more than women because men have more income to spend. On the other hand, With the high number of female-led households.⁴⁷ Women are disproportionately disadvantaged as they lead families with low incomes. In the case of low incomes, women spend more than men. This is true for women who are within the salary range of R 800-1199, R1200-R1799 and R1800-2499.

⁴⁷ K.O. Odeku, The plight of women entrepreneurs during covid-19 pandemic lockdown in South Africa. *Gender & Behaviour*, 2020, vol.18 no. 3, pp 16068 – 16074.

Figure 4: Expenditure



Source: own elaboration, 2023.

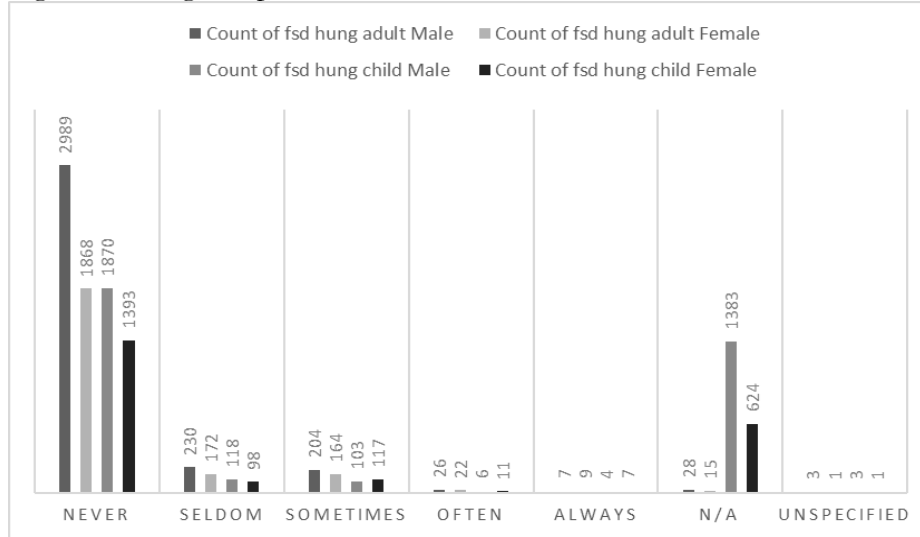
In order to understand the concept of in-work poverty, we use the following information about food poverty:

Table 3: Survey questions on food poverty

Insufficient food for adult	Skipped meals for 5 or more days in the past 30 days.
Insufficient food for children	Ate less food
Lack of variety of foods kind	Ate less for 5 or more days in the past 30 days
Lacked variety for food kind for 5 or more days in the past 30 days	Ran out of food
Skipped meals	Ran out of food for 5 or more days in the past 30 days

Source: Adopted from Statistics South Africa, 2021.

Figure 5: Hunger experiences in the household

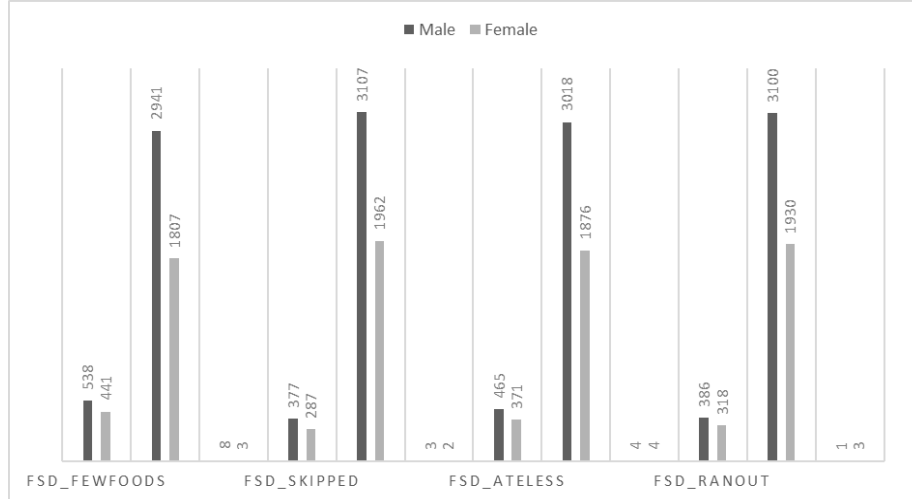


Source: own elaboration, 2023.

Note: This data excludes participants who do not earn a salary. However, includes other support income such as grants.

Figure 5 contains the number of adults (18 years and older) and children (17 years or younger) who in the past 12 months have experienced hunger in a household. Out of 3487 men 2989 men in the household have never gone hungry because there was not enough food in the household. Furthermore 1870 children who live in male-led households have never experienced hunger. Out of 2251, only 1868 women and 1393 children living in female-led households have never experienced hunger due in sufficient food in the household. Most male-led households have fewer children, so 1383 entries were not applicable since there were no children present. On the other hand, only 624 entries were not applicable in female-led households since there were no children. However, this implies that more female-led households have more children. Additionally, this could indicate that as a female-led country (Odeku,2020), women are endowed with more responsibilities.

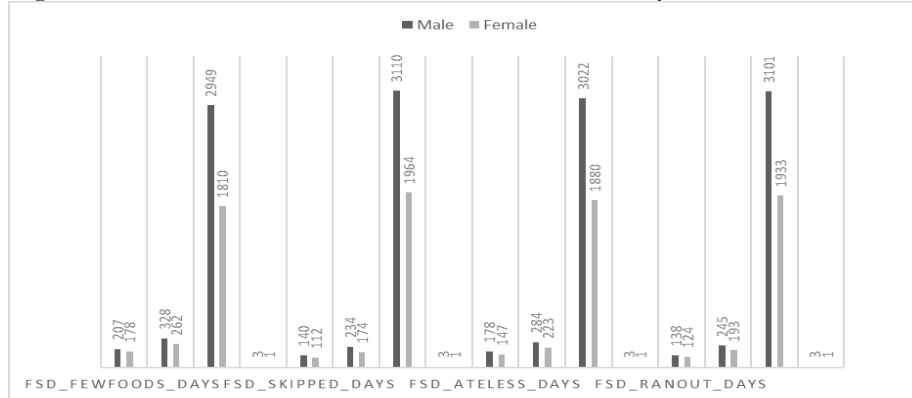
Figure 6: Food access in the household over a year



Source: own elaboration, 2023.

Fig. 6 shows men and women's food access experiences over the past year. First, respondents answered whether they or others in their household ate only a few foods due to financial constraints or other resources in the past 12 months. 2941 men and 1807 women answered 'no'. 538 men (15,4%) and 441 women (19,5%) answered 'yes'. 8 men and 3 women were 'unspecified'. In the second question, the respondents were asked if they or others in their household have ever skipped meals due to lack of funds or resources. 3107 men and 1962 women answered 'no'. 377 men (10,8%) and 287 (12,7%) women answered 'yes'. As a third question, households were questioned about times when they or others in their household ate less than they thought they should due to a lack of money or other resources. 3018 men and 1876 women answered 'no'. 465 men (13,3%) and 371 women (16,4%) answered 'yes'. Lastly, the fourth question interrogated whether there were times when the respondent or anyone in the household ran out of food because of a lack of money or other resources. 3100 men and 1930 answered 'no'. 386 (11,0%) men and 318 women (14,12%) answered yes. Consequently, despite the income earned by most men and women, a number of families remain poor.

Figure 7: Food access in the household over 5-30 days



Sources: own elaboration, 2023.

Fig. 7 shows men and women's food access experiences over 5-30 days. The first question interrogated the number of people in the household who only ate a few kinds of foods due to a lack of money or other resources. 2949 men and 1810 women answered that 'they do not know'. 207 men (5,9%) and 178 women (7,9%) answered 'yes'. Secondly, the respondents were asked if they or others in their household have ever skipped meals because there was not enough money or other resources to buy food. 3110 men and 1964 women answered that 'they do not know'. 140 men (4,0%) and 112 women (4,9) have answered 'yes'. The third question investigated the number of people in a household who, ate less than they thought they should because of a lack of money or other resources. 3022 men and 1880 women answered that 'they do not know'. 178 men (5,1%) and 147 women (6,5) answered that they have. Lastly, the fourth question investigates number of people in a household who ran out of food because of a lack of money or other resources. 3101 men and 1933 women answered that 'they do not know'. 138 men (3,9%) and 124 (5,5%) women answered 'yes'. In spite of the fact that fewer women were interviewed than men, more women experienced poverty traits as a result. This also implies that children are bound to suffer.

6. Conclusion

Based on these findings, there are several policy recommendations that can be made to further address in-work poverty among female employees in South Africa. This study, by showing the trend analysis of low wages, aims to be a study of advocacy that minimum wages should be increased. To combat in-work poverty in South Africa, a multi-faceted approach is needed. Firstly, the government should address the issue of low wages by implementing and

enforcing a more adequate minimum wage. There is a need to improve compliance with the National Minimum Wage Act, such as reviewing exemptions, enforcing compliance, and addressing challenges through stakeholder involvement and policy amendments. This, however, must be balanced with avoiding excessive burdens on employers, as it could potentially lead to job losses. Additionally, efforts should be made to improve access to quality education and skills training to increase employees' employability and earning potential. By implementing comprehensive policies and legislation focused on promoting gender equality and investing in education and social protection, South Africa can take significant strides towards closing the gender wage gap and creating a more equitable and prosperous society.⁴⁸

The gender wage gap in South Africa is a complex issue deeply intertwined with in-work poverty. The persisting gender-based pay disparities perpetuate income inequalities and hinder women's economic empowerment. By examining the historical context, measurement methodologies, labour market segmentation, impact on poverty rates, contributing factors, policy interventions, and the role of trade unions and civil society organizations, this essay sheds light on the urgent need to address the gender wage gap in South Africa. Policies that promote pay equity, equal opportunities, and work-life balance are essential to fostering a fair and inclusive labour market that benefits all. Addressing the gender wage gap and in-work poverty requires comprehensive policies and strategies at various levels. Legislative measures, such as the Employment Equity Act, aim to promote gender equality in the workplace by prohibiting unfair discrimination and ensuring equal pay for work of equal value. However, the effective implementation and enforcement of these laws remain critical challenges. Additionally, promoting women's education and skills development, along with tackling occupational segregation, can contribute to reducing the gender wage gap.

Addressing these underlying causes is crucial to narrowing the gender pay gap and reducing in-work poverty rates in South Africa. To tackle the gender wage gap and alleviate in-work poverty, proactive policy interventions are needed. These include promoting pay transparency, implementing affirmative action measures, enhancing skills development programs targeted at women, and providing affordable childcare facilities. Policies measures aim to increase women's access to high-paying jobs, reduce labour market segmentation, and ensure their economic empowerment. Trade unions and civil society

⁴⁸D. Swanepoel, *Understanding Gender Inequality* Inclusive Society Institution, <https://drive.google.com/file/d/1-4Y5klfsYljdQ3qLkfQZVYwLWAwTeM/view> (accessed June 20, 2023).

organizations play a vital role in advocating for gender pay equity and reducing in-work poverty. These entities work to raise awareness, mobilize women, and address gender-based wage disparities through collective bargaining and policy advocacy. Their efforts are crucial for effecting lasting change in the labour market.

7. Bibliography

1. D. Swanepoel, *Understanding Gender Inequality Inclusive Society* Institution, <https://drive.google.com/file/d/1-4Y5klfsYljdQ3qLkfqQZVYwLWAwTeM/view> (accessed June 20, 2023).
2. Employment Equity Act No. 55 of 1998.
3. Global Wage Report 2018/19: *What lies behind gender pay gaps*, International Labour Office – Geneva: ILO, 2018, pp 1 - 210.
4. G. Murwirapachena, K. Sibanda, *Exploring The Incidents Of Strikes In Post-Apartheid South Africa*, International Business & Economics Research Journal (IBER), 2014, vol. 13, no. 3, pp 553 – 560.
5. H. Bhorat, R. Kanbur and N. Mayet, *The impact of sectoral minimum wage laws on employment, wages, and hours of work in South Africa*, IZA Journal of Labor & Development, 2013, vol. 2 no. 1, p. 1 – 27.
6. H. Bhorat, and S. Goga, *The Gender Wage Gap in Post-apartheid South Africa: A Reexamination*, Journal of African Economies, (2013), vol. 22 no. 5, pp 827–848.
7. H. Bhorat, A Lilenstein and B Stanwix, *The Impact of the National Minimum Wage in South Africa: Early Quantitative Evidence*, Development Policy Research Unit (DPRU), University of Cape Town, 2020, pp 1 – 36.
8. H. Kabir, M. Maple, M.D. Islam, K. Usher, *The Paradoxical Impacts of the Minimum Wage Implementation on Ready-made Garment (RMG) Employees: A Qualitative Study*, The Indian Journal of Labour Economics, 2022, vol. 65 no. 2, pp 545–569.
9. K. Lilenstein, I. Woolard and M. Leibbrandt, *In-Work Poverty in South Africa: The Impact of Income Sharing in the Presence of High Unemployment*, Southern Africa Labour and Development Research Unit, University of Cape Town, 2016, pp v1 -26.
10. K.O. Odeku, *The plight of women entrepreneurs during covid-19 pandemic lockdown in South Africa*, Gender & Behaviour, 2020, vol.18 no. 3, pp16068 – 16074.
11. L.L Kubjana, *The Legal Protection of Domestic Workers in South Africa: A Square Peg it is (Into a Round Hole)*, Obiter, South Africa, 2016, vol. 37 no.3, pp 549-569.
12. M. Leibbrandt, I. Woolard, H. McEwen, and C. Koep, *Employment and Inequality Outcomes in South Africa*, Southern African Labour and Development Research Unit(SALDRU) and the School of Economics, University of Cape Town, Western Cape, 2010, pp 1-54.

13. N. Gündoğan, M. Kemal Biçerli and U. Aydın, *The Working Poor: A Comparative Analysis*, Munich Personal RePEc Archive 2005, vol. 5096, pp 1 – 23.
 14. National Minimum Wage Act, 2018. Government Gazette, Republic of South Africa,
 15. R. Brothwell, *Government launches new hotline to report South Africans that don't pay minimum wage*, 2020, <https://businesstech.co.za/news/business/378487/government-launches-new-hotline-to-report-south-africans-that-dont-pay-minimum-wage/> (accessed May 7, 2024).
 16. R. Maluleke, *Inequality Trends in South Africa: A multidimensional diagnostic of inequality*, Statistics South Africa 2019, pp 1 – 22.
 17. R. Morrell, R. Jewkes, R. and G. Lindegger, *Hegemonic masculinity/ masculinities in South Africa: Culture, power and gender politics. Men and Masculinities*, Sage Journal, 2012, vol. 15 no. 1, pp 11–30.
 18. R.S Masango, *Factors that Negatively Affect the Implementation of the National Minimum Wage in South Africa*, Administratio Publica 68, 2020, vol. 28 no. 1, pp 67 – 81.
 19. R. Rosiński R, *The minimum wage in the national economy: reasons and changes in Poland*, *Ekonomia i Prawo*, 2021 vol. 20 no. 2, pp 425–437.
 20. S. Neunsinger, *Translocal Activism and the Implementation of Equal Remuneration for Men and Women: The Case of the South African Textile Industry, 1980–1987*, *International Review of Social History*, Sweden, 2019, vol. 64 no. 1, pp 37–72.
 21. S.Y. Choi, and K.F. Ting, K.F, *Wife beating in South Africa: An imbalance theory of resources and power*, *Journal of Interpersonal Violence*, 2008, vol. 23 no. 6, pp 834–852.
 22. StatsSA, *General Household Survey, 2021*, 1-73. [chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.statssa.gov.za/publications/P0318/P03182021.pdf](https://www.statssa.gov.za/publications/P0318/P03182021.pdf) (accessed July 3, 2023).
 23. T. Hertz, *Have Minimum Wages Benefited South Africa's Domestic Service Workers?*, Development Policy Research Unit (DPRU), University of Cape Town, Working Paper 05/99, pp 1 - 23.
 24. T.Y. Chitaka, T. Moyo, K. Gihring, and C. Schenck, *The myth of livelihoods through urban mining: The case of e-waste pickers in Cape Town*, *South African Journal of Science*, 2022, vol 118, pp 1-8.
- World Employment Report 2004-05, *Employment, productivity and poverty reduction*, Geneva, ILO, 2005, pp 1 – 25..

Detecting Bogus Self-Employment in Portugal's Cultural Sector: One Step Forward and Two Steps Back?

Joana Neto *

Abstract. In 2021, Portugal approved the new Status of Professionals in the Cultural Sector (the “Status”) aimed at combating precariousness within a sector characterised by various specificities. One of its innovative tools was the establishment of a specific system for the supervision and regularisation of situations involving false provision of services, alongside a new presumption of an employment contract. This article seeks to analyse the significance of these monitoring tools and the impact of the amendments introduced for detecting and preventing false self-employment in the Cultural Sector.

Keywords: *Culture professionals; bogus self-employment; fixed-term contracts; presumption of employment.*

1. Introduction

The artists and professionals within the cultural and creative sectors typically operate under freelance or other precarious statuses. The COVID-19 pandemic has underscored the fragile labour conditions in these sectors, particularly in Portugal. In an effort to combat this precariousness, which is characterised by volatility and intermittency in professional activities, the new Status of Professionals in the Cultural Sector (the “Status”) was approved by Decree-Law 105/2021 on 29th November 2021. One of the most significant tools introduced by the Status to address precariousness was the establishment of a specific system for supervising and regularising situations that constitute false provision of services, along with a presumption of an employment

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contract. These tools were designed to prevent the rise of fraudulent service contracts and false self-employment. However, this innovative system has undergone two amendments, leading to uncertainty regarding the results of its application. This article proposes to analyse the monitoring tool designed for detecting and preventing self-employment as outlined in the Status. The study will also examine the effects of the legislative amendments to the presumption of employment, which were justified by a need for simplification and flexibility, arguing that these changes have weakened its effectiveness. Additionally, this paper aims to provide a brief and simplified comparative analysis of specific labour protection mechanisms in Spain and Italy. The Spanish regime is more focused on combating fixed-term contracts, while Italy's ongoing review addresses compensation for intermittency. In contrast, the Portuguese legal framework primarily targets abusive service provisions.

2. A Brief Contextualisation of the International and European Legal Framework

The professionals in the cultural and creative sectors are often not recognised as workers, a situation that contravenes the 1980 UNESCO Recommendation concerning the Status of the Artist¹. Frequently, they carry out their work in contexts of insecurity, lacking permanent or full-time contracts. Many work as self-employed individuals or freelancers, hold secondary jobs, or combine multiple roles, often under contracts for the provision of services². This means they are frequently excluded or only partially covered by social security protection. Additionally, there is a significant lack of collective bargaining³ in the cultural sector, which contributes to further deregulation of working conditions. The pandemic crisis has highlighted the vulnerable position of professionals in the cultural and creative sectors.

¹ UNESCO's 1980 *Recommendation concerning the Status of the Artist: promoting the professional, social and economic rights of artists*. Available at: [UNESCO's 1980 Recommendation concerning the Status of the Artist: promoting the professional, social and economic rights of artists - UNESCO Digital Library](#).

² MAFALDA DÂMASO (2021), *Research for CULT Committee – The situation of artists and cultural workers and the post-COVID 19 Cultural Recovery in the European Union: Background Analysis*, European Parliament.

³ MÄKI, TEEMU/ RYNGBECK, ANNICA / MICHALOWSKI, PIOTR (2021), «Fair pay, Collective Bargaining, Intellectual Property, Flattening Income Variations, Financial Support», in *Status and working conditions of artists and cultural and creative professionals*, Voices of Culture Report, Brussels, Chapter 2, pp. 14-15. Available at: <https://voicesofculture.eu/wp-content/uploads/2021/07/VoC-Brainstorming-Report-Working-Conditions-2.pdf>

According to the European Parliament Resolution 2020/2708(RSP) on the Cultural Recovery of Europe⁴, dated 2020, the Commission should introduce a European Framework for Working Conditions in the cultural and creative sectors and industries (CCSI) and provide guidelines and principles aimed at improving working conditions in these sectors. Later, the European Parliament Resolution of 20 October 2021 regarding the situation of artists and cultural recovery in the EU called, in paragraph 25, for the Commission to “propose a European Status of the Artist, setting out a common framework for working conditions and minimum standards applicable to all EU countries”.⁵ These resolutions advocate that EU Member States and European institutions recognise the fundamental role culture plays within society and provide support for culture, cultural diversity, and cultural rights, as well as freedom of artistic and cultural expression, acknowledging both its intrinsic value and its economic contribution. They also urge Member States to take measures to ensure fair working conditions for artists and cultural and creative professionals by implementing necessary actions to protect workers, especially in a context where prevalent employment relationships are changing. In 2020, experts from EU Member States within the OMC group on Innovation and Entrepreneurship in cultural and creative sectors recommended innovative policies: “Policy frameworks designed to foster innovation in the cultural and creative sectors should make special provisions to enable all professionals in these sectors to be creative and innovative. This can be achieved by ensuring that those who work on a project or other unconventional basis have access to appropriate employment rights and labour rights”.⁶ In Portugal, the adoption of the Status Law for Cultural Professionals aimed to align with these recommendations and was approved concurrently with the proposal for a European Status for Artists. The Draft Report dated 2023 includes a Motion for a European Parliament Resolution with recommendations to the Commission on an EU framework for the social and professional situation of artists and workers in the cultural and creative sectors (2023/2051(INI)). It calls on those Member States that have an ‘artist status’ to monitor its adequacy and review it where necessary.⁷ Pearle Performance Europe (the Performing

⁴ EUROPEAN PARLIAMENT, Resolution of 17 September 2020 on the cultural recovery of Europe 2020/2708(RSP). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52020IP0239>

⁵ EUROPEAN PARLIAMENT, Resolution of 20 October 2021 on the situation of artists and the cultural recovery in the EU (2020/2261(INI)). Available at: [TA MEF \(europa.eu\)](https://www.europarl.europa.eu/ta-mef/ta-mef-2021-10-20-21-2261-ini)

⁶ SNIJDERS, JACQUELINE et. al. (2020), *The status and working conditions of artists and cultural and creative professionals*, Panteia, pp. 121-122.

⁷ EUROPEAN PARLIAMENT, *Draft Report with recommendations to the Commission on an EU framework for the social and professional situation of artists and workers in the cultural and creative sectors*

Arts Employers Association League Europe/The European Federation of Music and Live Performance Organisations) emphasises the importance of “the application and respect for European rules in the broad field of employment and social affairs” among Member States. This organisation also highlights “the crucial role of social partners in creating a level playing field for those working in the sector” and stresses that “adequate social protection schemes provide artists with an important sense of security in cases of sickness, unemployment, pension income, care needs, and minimum income”.⁸ It is important to note that paragraph 12 of the Motion on the EU framework for the social and professional situation of artists and workers in the cultural and creative sectors (2023/2051(INL)) “calls on Member States and social partners to commit to preventing undeclared work and eradicating bogus self-employment practices in these sectors, including by strengthening the actions of labour enforcement authorities”.⁹ Some amendments proposed by political groups within the European Parliament aim to enhance this supervisory role. Paragraph 19 also stresses the need for more information to be provided to students and young graduates entering the labour market regarding working practices and conditions, including an understanding of worker versus self-employed status.

3. The New Status of Professionals in Portugal’s Cultural Sector: An Outline

The impact of the COVID-19 pandemic on the cultural sector was particularly pronounced in Portugal, as it was in other European countries such as Italy¹⁰. The lack of labour and social protection, stemming from the widespread reliance on service provision rather than regular employment contracts in the cultural sector, remains unresolved. The response to this issue has primarily been social support, specifically compensation for loss of income. This support aligns with UNESCO’s recommendations for building resilient creative

(2023/2051(INL)), 2023. Available at : https://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/CJ28/PR/2023/06-29/1280867EN.pdf

⁸ PEARL LIVE PERFORMANCE EUROPE, *Pearl position on an EU framework for the social and professional situation of artists and workers in the cultural and creative sectors*, Bruxelles, 2023. Available at: <https://www.pearle.eu/positionpaper/pearle-position-on-an-eu-framework-for-the-social-and-professional-situation-of-artists-and-workers-in-the-cultural-and-creative-sectors>

⁹ EUROPEAN PARLIAMENT, *Motion EU framework for the social and professional situation of artists and workers in the cultural and creative sectors ((2023/2051(INL))*, 2023. Available at: [PR INL \(europa.eu\)](https://www.europa.eu)

¹⁰ A. ALAIMO, *Povert , lavoro autonomo e tutela del corrispettivo*, Centre for the Study of European Labour Law “Massimo D’Antona”, 2023, p.7.

industries beyond COVID-19¹¹. However, the implementation of this support has been weak in terms of coverage and effectiveness, with professional and trade union organisations in the cultural sector reporting practical difficulties. It is important to highlight that, according to UNESCO data from 2021, self-employed individuals experienced higher levels of income loss and unemployment compared to other categories of cultural and creative workers.¹² The urgency in accessing this support highlighted an ongoing issue that the new context brought to light: the widespread precariousness of labour in the cultural and creative sectors. A structural response is necessary. There are several potential solutions to this problem: i) Strengthening social protection for self-employed workers when their contracts are terminated, particularly through severance pay; ii) Promoting collective bargaining that is flexible enough to accommodate sector-specific needs, while also addressing unionisation restrictions for freelance professionals and the fragility and short duration of contracts that hinder these professionals' participation in collective representation structures; iii) Implementing labour regulations that can adapt to the nature of cultural activities, although this may face resistance from a sector that is not only informal but also tends to favour flexibility over rigidity. The European Parliament Resolution of 20 October 2021 on the situation of artists and cultural recovery in the EU (2020/2261(INI)) noted that “the COVID-19 pandemic had severely undermined the fragile cultural and creative ecosystem,” identifying this issue as a European-wide problem that threatens cultural and artistic creation while weakening the contribution of arts and culture to well-being, cultural diversity, democracy, and more. In Portugal, following the European Parliament Resolutions, a solution was found with the approval of the Status aimed at combating precariousness in a sector characterised by volatility and intermittency in professional activities. This has sometimes led to worker rotation and the flexibilisation of fixed-term contracts¹³. On 29th November 2021, Decree-Law 105/2021 was approved, establishing the Status of Professionals in the Area of Culture (the “Status”), which came into force on 1st January 2022. There are several inspiring examples of Status of Artist laws worldwide that can serve as comparative references:

¹¹ UNESCO, *Culture in crisis: Policy guide for a resilient creative sector*, 2020. Available at: [Culture in crisis – New UNESCO publication offers tips for resilient creative industries beyond COVID-19 | Diversity of Cultural Expressions](#)

¹² UNESCO, *Culture and Creative Industries in the Face of Covid-19. An Economic Impact Outlook*, 2021. Available at: [377863eng.pdf \(unesco.org\)](#)

¹³ MARIA DO ROSÁRIO PALMA RAMALHO, «O contrato de trabalho dos profissionais de espectáculos: algumas notas», *Estudos de Direito do Trabalho em homenagem ao Professor António Monteiro Fernandes, Vol. II, Capítulo IX*, Nova Causa, 2018, pp. 224-246, [233-234].

a) Morocco's Status of the Artist legislation (2003) includes important measures such as "the requirement for a written contract between the artist and employer, with terms that respect minimum wage requirements and include provisions for remuneration and termination," ensuring that performing artists with term contracts are considered employees under labour law. This Status Law was amended in 2016 to extend social benefits protection for performing artists to other cultural professionals, thereby reducing their generally precarious work situations.

b) The Korean Artists Welfare Act (2011), also amended in 2016, mandates that "those who use artistic services must enter into a written contract with artists." This is complemented by institutional information provided by the Korean Ministry of Culture, which has issued "56 model contracts across nine different artistic fields," outlining each party's obligations and responsibilities, scope of work, and compensation agreements. According to Korean surveys, there was a "significant improvement in the number of artists who obtained written contracts for their services," rising from 26% in 2015 to 37% in 2018¹⁴.

c) In Spain, Royal Decrees 26/2018 and 302/2019 established urgent measures for artistic creation and cinematography following a vigorous advocacy campaign led by prominent artists' associations in September 2018. These measures relate specifically to recognising intermittency and implementing social security provisions¹⁵.

d) In Italy, Law 106/2022 (15 July) delegates power to the Government to draft a Codice dello Spettacolo (Entertainment Code), acknowledging the discontinuous and flexible nature of cultural activities. This law aims "to provide the sector with a more effective, organic structure aligned with principles of simplification of administrative procedures and optimisation of expenditure," while promoting gender balance and enhancing artistic-cultural quality within activities.

e) The Portuguese Status encompasses all professionals working within performing arts, audiovisuals, visual arts, and literary creation sectors, provided they engage in authorial, artistic, or technical-artistic activities.

Thus, the approval of Portugal's new legal regime for the cultural sector is based on an understanding—previously established—that employment contracts for cultural professionals possess certain specificities (such as intermittency and seasonality) that necessitate their classification as special employment contracts requiring distinct legal frameworks.¹⁶ In Portugal, key

¹⁴ UNESCO, *Culture & Working Conditions for artists*, Paris, 2019, pp. 16-19 [18].

Available at: [371790eng.pdf \(unesco.org\)](#)

¹⁵ UNESCO, *Culture & Working Conditions*...p. 18.

¹⁶ GOMES, JÚLIO (2010), «Da fábrica à fábrica dos sonhos – primeiras reflexões sobre o regime dos contratos de trabalho dos profissionais», *Novos estudos de direito do trabalho*,

differences between the previous system (established by Law 4/2008 on 7th February¹⁷) and the current legal framework include regulation for autonomous labour relations without legal subordination and a more comprehensive framework for social protection for unemployed workers. The new Status grants access to a special contributory regime and benefits for suspending cultural activity, thereby preventing systematic entry into and exit from support systems by these professionals. The new legal framework also establishes specific mechanisms for supervising and regularising situations constituting false provisions of services combined with a presumption of an employment contract. This presumption considers specific rules regarding workplace conditions, working time, and working hours tailored to each area within culture, allowing for greater flexibility and better adjustment. In summary, the Status applies to professionals engaged in performing arts, audiovisuals, visual arts, or literary creation who are involved in authorial, artistic, technical-artistic or cultural mediation activities. Its aim is to combat precariousness within cultural contexts while preventing an increase in false provisions of service contracts.

4. The Innovations introduced by the Status

The Status contains two significant innovative provisions related to its regulatory scope: it includes copyright activities and establishes a legal regime not only for labour contracts but also for contracts for the provision of services, aspects that were excluded under the previous regime, Law no. 4/2008 of 7th February.¹⁸ The new legal framework emphasises the monitoring

Coimbra Editora, pp. 197- 231, [204-212]; VICENTE, JOANA NUNES (2018), «A disciplina do contrato a termo dos profissionais de espectáculo: relações de tensão entre a Lei 4/2008, de 7 de Fevereiro e a CRP e o Direito da União Europeia», *Prontuário de Direito do Trabalho II*, 2017, n.º II, Almedina, pp.259-279 [263-264] e NETO, JOANA (2019), «Na boca de cena da desregulação. O regime jurídico do contrato de trabalho dos profissionais de espetáculo». Vila Nova de Famalicão, Novembro Editora, pp. 19-32. Ainda no sentido da qualificação destas relações como relações especiais de trabalho cfr. MAZZONI, GIULIANO (1977), *Manuale di Diritto del Lavoro*, vol. I, 5.ª edição, Giuffrè, Milano, pp. 775-776 e ALZAGA RUIZ (2015), “La relación laboral especial de los artistas en espectáculos públicos: balance a los treinta años de su aprobación”, *Revista del Ministerio de Empleo y Seguridad Social*, n.º 118, 2015, pp. 127- 265, [128-129].

¹⁷ For further developments about Law 4/2008, 7th February, cfr. NETO, JOANA (2019), *Na boca de cena da desregulação. O regime jurídico do contrato de trabalho dos profissionais de espetáculo*, Vila Nova de Famalicão, Novembro Editora.

¹⁸ NETO, JOANA (2023) «A alteração ao Estatuto dos Profissionais da Cultura. Amputaram a nova presunção de laboralidade?», *Revista Internacional de Direito do Trabalho n.º 4*, Ano III, maio de 2023, Instituto de Direito do Trabalho, Faculdade de Direito da Universidade de Lisboa, pp. 181-218, [181-187].

of the improper use of service provision contracts, defining how various supervisory bodies in the cultural and labour sectors should interact, according to Articles 78 and 79. Article 4 outlines positive action measures, stipulating that state services, the state business sector, and associations and foundations primarily funded by the state must hire professionals in the cultural sector under an employment contract regime. Additionally, if they engage legal entities to carry out cultural activities, these entities must ensure that their cultural professionals are also hired under an employment contract regime. The legal regime of the Status also establishes new special rules regarding the registration of cultural professionals and defines the social protection regime available to those covered by the Status, including provisions for very short-term contracts—a controversial contractual modality introduced in an amendment made in 2009 to the now-repealed Law 4/2008. The regulation concerning social protection for these contracts was implemented by Ordinance 209/2023 of 14th July (Articles 2 and 3).¹⁹ The Status regulates employment contracts, internship contracts (as provided for in Article 10(2) of Decree-Law 66/2011 of 1st June), and service provision contracts—a legal solution that is quite unusual. This framework applies to all professionals in performing arts, audiovisuals, visual arts, and literary creation who engage in authorial, artistic, technical-artistic, or cultural mediation activities. The Status has also clarified debated aspects of the previous regime concerning fixed-term employment contracts. It establishes the necessity to specify justifying reasons for imposing a term and sets a limit on renewals (fixed-term contracts may be renewed up to three times if agreed upon in writing). However, it maintains the provision exempting these contracts from the regime of successive contracts. It also clarifies employee duties during periods of intermittency by extending the duty of effective occupation (Article 16(6) of the Status) and enshrining the requirement for absolute incapacity for applying the professional reconversion regime. In the following section, one of the most important innovations of the Status will be explored: the aforementioned special presumption of an employment contract and its monitoring system.

5. The Presumption of Employment and its Monitoring System: Strengths and Weaknesses

The intermittent nature of work in the cultural and creative sector impacts not only the income of cultural workers but also their access to social benefits and collective bargaining. Since 1930, the French legal system has sought to

¹⁹ Available at: <https://diariodarepublica.pt/dr/en/detail/government-order/209-2023-215647927>

regulate and improve the legal response to this situation through the designation of “intermittent du spectacle,” which includes the presumption of employment²⁰. In West African countries, such as Senegal, the presumption of employee status is also a crucial provision of the Status of Artist Law²¹. In fact, many countries, including Spain²², utilise the presumption of employment. In Portugal, Article 7 of the Status establishes a new presumption of an employment contract based on Article 12 of the Portuguese Labour Code, with specificities concerning the place of work and the start and end times of service now articulated in broader terms²³. However, the presumption of an employment contract outlined in Article 12 of the Labour Code (CT) lacks a rule clarifying “proof of the facts determining the nature of the contractual relationship in situations where work is provided by one person for the benefit of another.”²⁴ According to Article 7, workplaces are defined as all locations owned by entities receiving services, whether or not specified by them. This includes ateliers and all locations where activities related to development, pre-production, testing, execution, finalisation, and post-production of cultural and artistic events are carried out. Under this rule, an employment contract is presumed to exist when certain characteristics outlined in Article 12 of the CT are present in the relationship between the individual providing an authorial, artistic, technical-artistic, or cultural mediation activity under this Status and those benefiting from it. Consequently, the definitions of working time and place have been expanded. To combat the improper use of service provision contracts, as originally defined by the Status, employers with organised accounting were required to rebut the presumption of an employment contract when entering into contracts for service provision, as per Article 30(2) of the Status. This rule stipulated that entities receiving service provisions must inform about the conclusion of service provision contracts before they take effect to justifiably rebut the presumption of an employment contract outlined in Article 7. This communication was to be made using a single electronic form

²⁰ CUNY, LAURENCE; GU, XIN; INTHAMOUSSÚ, MARTIN; KESSAB, AMMAR, (2022), *A crisis of sustainable careers? Examining working conditions for independent arts and cultural workers*, IFFACA, International Federation of Arts Council and Cultural Agencies, 2022, p. 37. Available at: <https://ifacca.org/news/2022/09/15/crisis-sustainable-careers-examining-working-condi/>

²¹ UNESCO, *Culture & Working Conditions for artists...* p 19.

²² OIT, *Las relaciones de trabajo en las industrias...*p. 2.

²³ DRAY, GUILHERME/BARRIAS, JOSÉ (2023), *Estatuto dos Profissionais da Cultura Anotado. Decreto-lei n.º 105/2021, de 29 de Novembro. com a Redação Conferida Pelo Decreto-lei n.º 64/2022, de 27 de Setembro*, Editora d' Ideias, Coimbra, pp. 29-31.

²⁴ FERNANDES, ANTÓNIO MONTEIRO (2021), «Nótula sobre o ónus da prova nos litígios laborais», *Prontuário de Direito do Trabalho, 2021-II*, Centro de Estudos Judiciários, pp. 95-111, [108-109].

defined by Ordinance 13-A/2022 of 4th January, which regulated this duty as a measure against precariousness and directed it to both the General Inspection of Cultural Activities (IGAC) and the Tax and Customs Authority (AT). In summary, Article 30(2) stipulated that employers had to provide a reasoned rebuttal against the presumption of employment using a form. Violating this requirement constituted a serious administrative offence under paragraph 3 of the same article. This solution has faced criticism due to practical difficulties in justifiably rebutting the presumption using a form.²⁵ The specific system for supervising and regularising situations constituting false services—alongside the assumption of an employment contract—aimed at preventing an increase in false service contracts (as defined by Ordinance 13-A/2022) was altered by Decree-Law no. 64/2022 on 27th September. This Decree revoked the aforementioned ordinance and eliminated obligations for employers with organised accounting when entering into contracts for service provision. Thus, following this amendment, there was a clear regression in what was previously considered a primary instrument for combating improper use of false service contracts. Subsequently, Government Order 142/2023 was published in *Diário da República* (the Portuguese Official Journal) on 30th May 2023. This order appeared to rectify that situation by altering regulations regarding communication about signing contracts for service provision with professionals in culture. According to Article 4 of this new Ordinance, entities benefiting from services that have or should have organised accounting under Portuguese tax law must communicate any signed contracts for service provision within ten working days following each quarter through the ePortugal portal. In this way, 2023 saw a simplification of previous communication requirements that had removed the presumption of an employment contract. Additionally, according to Article 5(1) (in line with Articles 30(3), 79, and 81(3) of the Status), electronic checks can be conducted based on these communications alongside associated tax and social security obligations. Without prejudice to other supervisory activities, verification by authorities responsible for inspecting working conditions in Portugal regarding improper use of service provision contracts within subordinate employment relationships is carried out through periodic sample checks. In 2024, Decree-Law no. 25/2024 introduced amendments to the Status, specifically regarding Article 30 related to communication about service provision while reinforcing it by including another entity—the Authority for Working Conditions (ACT), which promotes improvements in working conditions through prevention, control, auditing, and inspection. Despite this amendment and the positive step

²⁵ VENTURA, VICTOR HUGO (2022), *O estatuto dos profissionais da área da cultura: regime novo ou Mise-en scène* (Decreto-lei n.º 105/2021, de 29 de novembro), Edições Almedina, Maio de 2022, p.201.

involving ACT's participation, the current version of the monitoring mechanism suffers from vague wording that does not specify inspection frequency. This ambiguity may render its application ineffective or impractical. It is also important to note that operational difficulties regarding inspection activities within this sector may become even more pronounced in this context since contracting entities are relieved from having to demonstrate—even indicatively—the presumption of employment.

6. The Problem of Contract Qualification: A Paradigmatic Case Law Example

The distinction between an employment contract and a contract for the provision of services in the cultural sector presents additional challenges regarding the longstanding question of the limits of legal subordination in activities traditionally performed in a liberal or creative manner. This issue is linked to the emergence of hybrid or intermediate categories of self-employed workers, which are recognised by the Portuguese, Spanish, and German legal systems²⁶: economically dependent self-employed workers. This category is acknowledged within the Portuguese legal system and comes with specific forms of protection. Although this article does not focus on it, reinforcing labour protections for this category of professionals is a viable response to the precariousness prevalent in the sector. However, the more pressing question is whether legal subordination remains the determining criterion for contract qualification or if new forms of legal subordination must be considered alongside criteria such as economic dependence. One notable decision regarding this issue in Portugal is the emblematic ruling from the Supreme Court of Justice, which qualified the contractual relationship established between the conductor of the Teatro Nacional de S. Carlos (TNSC) orchestra as a provision of services because the employee failed to prove the existence of a contractual relationship with TNSC. This ruling has faced criticism from Portuguese legal scholars.²⁷ The 2013 decision, made prior to the introduction of the new Status, interpreted the presumption of employment outlined in Article 12(1) of the Labour Code (CT). According to Article 12, an employment contract is presumed to exist when certain characteristics are verified, namely: i) the activity is performed at a location belonging to or

²⁶ For further information, see ALAIMO, A. (2023), *Povert , lavoro autonomo e tutela del corrispettivo*, Centre for the Study of European Labour Law “Massimo D’Antona”, p.39.

²⁷ SUPIOT, ALAIN (2000), “Les nouveaux visages de la subordination” in *Droit Social*; FERNANDES, ANT NIO MONTEIRO (2018), «Dever  a subordina o jur dica manter-se como elemento qualificador? II Congresso Europeu de Direito do Trabalho. Os desafios atuais do Direito do Trabalho, Almedina, pp.97-107.

determined by the employer; ii) work equipment and instruments used belong to the employer; iii) start and end times are observed as determined by the employer; iv) a certain amount of money is paid to the provider at specified intervals in exchange for their activity; and v) the provider performs management or leadership functions within the organisational structure of the company. The definition of an employment contract is further clarified by Article 11 of the CT, which states that it is "the contract whereby a natural person undertakes, for remuneration, to provide their activity to another person or persons within the scope of organisation and under their authority." Additionally, Article 1152 of the Civil Code (CC) stipulates that "the employment contract is one whereby a person undertakes, for consideration, to provide their intellectual or manual activity to another person under that person's authority and direction." In contrast, a service contract is governed by Article 1154 of the CC, which states that "a service contract is one whereby one party undertakes to provide another with a certain result of their intellectual or manual work, with or without payment." The boundary between these two contractual modalities can sometimes be difficult to define, although legal scholars have clarified this distinction. Currently, the presumption of employment is defined by the Status and results from a combined interpretation of Article 7—embodying an adaptation of indicators of legal subordination as contemplated in Article 12 of the Labour Code—alongside Article 30(2) of the Status.

7. The Spanish and the Italian Case

One of the essential distinctive aspects of the Portuguese Status for Cultural Professionals is that it regulates the provision of services in the cultural sector, giving it a much broader scope than the Spanish legal regime, which applies only to employment relationships within the sector.

However, Spain's 2007 Law on the Statute of Self-Employed Workers recognises the concept of "economically dependent self-employed worker," which encompasses a wide range of rights²⁸. In Portugal, the same concept is used, but only to compensate for lost income due to the involuntary termination of the service agreement with the employer²⁹. The greater protection afforded to self-employed workers in Spain may explain the differing focus of the new Artist Status Law in Portugal and Spain.

²⁸ OIT (2014), *Las relaciones de trabajo en las industrias de los medios de comunicación y la cultura*, p. 20. Available at: [Las relaciones de trabajo en las industrias de los medios de comunicación y la cultura \(ilo.org\)](http://www.ilo.org/public/english/employment/indicators/relations-work-culture)

²⁹ Information available at: [Request the severance grant - ePortugal.gov.pt](http://ePortugal.gov.pt)

In Spain, in 2021, Royal Decree 639/2021 of 27 July established a Commission for the Development of the Artist Status Law ('la Comisión Interministerial para el desarrollo del Estatuto del Artista'). According to news reports from the same year, prior to the announced new Statute of Artists, the Labour and Social Security Inspectorate was actively monitoring entertainment companies and sanctioning instances of 'false self-employment' in the cultural sector³⁰. Years prior, in 2018, Royal Decree-Law 26/2018 was approved, providing emergency measures for artistic and cinematographic creation within the tax and social security framework, but it depended on changes to the labour legal regime.

Subsequently, Royal Decree-Law (hereinafter RD) 5/2022, of 23 March 2022, amended, for the first time, RD 1435/1985, of 1 August 1985, which regulates the employment relationship of artists³¹. The amendments introduced by RD 5/2022 expanded its scope to include technical and auxiliary staff and added an exemplary list of artistic activities (Article 1, paragraph 1), similar to the Portuguese Status. However, unlike the current version of the Portuguese legal regime, the Spanish version does not extend the entire regime to technical and support activities. This includes the new provisions concerning contract qualification, measures to combat the misuse of fixed-term contracts, and increased compensation for contract expiration to enhance employment stability.

It is also important to stress that some of the amendments in Spain are similar to those introduced by the Status in Portugal. These include the updating of means of reproduction and venues for artistic activities, akin to the expansion or clarification of the concept of the workplace provided in Article 7 of the Status by reference to Article 12 of the Labour Code, which may encompass creators, artists, and cinematographers. The presumption of an indefinite duration contract was also established, mirroring Article 15/1 of the Estatuto de los Trabajadores (ET), approved by Royal Decree-Law 2/2015, of 23 October. However, it is significant to note that these presumptions are now less about fraud and more reliant on verifying illegality³².

³⁰ FIAVE, Federación de la Industria Audiovisual y Eventos (2021), *The new Statute of Artists wants to stop the hiring of false self-employed in the world of culture*. Available at: [Statute of Artists, against hiring of false self-employed - FIAVE](#)

³¹ Real Decreto-ley 5/2022, de 22 de marzo, por el que se adapta el régimen de la relación laboral de carácter especial de las personas dedicadas a las actividades artísticas, así como a las actividades técnicas y auxiliares necesarias para su desarrollo, y se mejoran las condiciones laborales del sector. Available at: <https://www.boe.es/eli/es/rdl/2022/03/22/5/con>

³² ALTÉS TÁRREGA, JUAN ANTONIO / ARADILLA MARQUÉS, MARÍA JOSÉ ... pp. 1-29, [8-10] e ALZAGA RUIZ, ICÍAR «La reforma de la relación laboral especial de artistas en espectáculos públicos» in *Interpretación, aplicación y desarrollo de la última reforma laboral*, coord. por Angel Jurado Segovia, Javier Thibault Aranda, 2023, pp. 140-143.

Nonetheless, this new presumption does not clarify whether Article 15.5 TE applies to professionals in the arts sector. According to this article, workers who, during a 24-month period, are employed for more than 18 months, whether continuously or intermittently, in the same role in the same company or group of companies, under two or more contracts due to production circumstances, either directly or via temporary employment agencies, acquire the status of permanent workers. Article 5.2 of RD 5/2022 stipulates that fixed-term work contracts must precisely specify the reason for the temporary contract, the specific circumstances justifying it, and its relationship to the contract's duration.

Like Portugal, the Spanish amendments invoke a "presumption mechanism," namely an *iuris et de iure* presumption, asserting that fixed-term contracts violating this rule transform into permanent contracts.

This issue has been addressed by the Court of Justice of the European Union (CJEU), particularly in Case C-238/14, 26 February 2015, *European Commission v Grand Duchy of Luxembourg*³³, and Case C-331/17, 25 October 2018³⁴, *Ms Sciotto v the Fondazione Teatro dell'Opera di Roma*. In the first case, the CJEU concluded that "by maintaining derogations from measures designed to prevent the abusive use of successive fixed-term contracts with respect to occasional workers in the entertainment arts, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Clause 5 of the Framework Agreement on fixed-term work of 18 March 1999, which is set out in the Annex to Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE, and CEEP".

The CJEU held that "Clause 5 of the framework agreement on fixed-term work concluded on 18 March 1999, which is set out in the Annex to Council Directive 1999/70/EC of 28 June 1999... must be interpreted as precluding national legislation, such as that at issue in the main proceedings, wherein the common law rules governing employment relationships, intended to penalise the misuse of successive fixed-term contracts by automatically transforming the fixed-term contract into a contract of indefinite duration if the employment relationship exceeds a specific date, are not applicable to the operative and

³³ Case C-238/14, 26 February 2015, *European Commission v Grand Duchy of Luxembourg*, Judgment of the Court (Third Chamber). Available at: <https://curia.europa.eu/juris/document/document.jsf?text=&docid=162535&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=1410275>

³⁴ Case C-331/17, 25 October 2018, *Ms Sciotto v the Fondazione Teatro dell'Opera di Roma*, Judgment of the Court (Tenth Chamber). Available at: <https://curia.europa.eu/juris/document/document.jsf?text=&docid=207010&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=1399774>

orchestral foundations sector, where there are no other effective measures in the domestic legal system to penalise abuses identified in that sector.”

In Portugal, doctrinal interpretation has often concluded that the revoked legal regime established by Law 4/2008 was not compliant with Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE, and CEEP.

In Spain, until the amendments to RD 1435/1985, the debate centred around the conformity of allowing successive fixed-term contracts with Community legislation, particularly Directive 1999/70/EC, along with Spanish case law's resort to the anti-fraud rule in Article 15.5 of the ET, which limits successive contracts.

In Italy, several changes are projected for the legal regime governing entertainment professionals. Legislative intervention for self-employed workers in the entertainment sector began with the “Sostegni-bis” Decree of 2021, which introduced innovations in social security and assistance within the sector. Later, this 2021 Decree was accompanied by Law 106/2022 of 15 July, which delegates the Government the authority to draft a Codice dello Spettacolo (Entertainment Code).

According to the governmental timetable presented during a meeting with theatre operators on 26 March 2024, the finalisation of the text is set to be presented to the Council of Ministers at the beginning of May, followed by consultations with regions and municipalities, with the measure anticipated to be approved by 18 August 2024, possibly by the end of July.

Law 106/2022 authorises the Government to adopt a legislative decree containing provisions for fair compensation for self-employed workers in the performing arts, including agents and representatives. This may involve the recognition of a daily allowance as a distinct and additional element of remuneration for workers who are obligated to be available on call or guarantee exclusive performance. Consequently, from 1 January 2024, entertainment workers will be entitled to the new discontinuity allowance, which is an economic aid of approximately €1,500 on average, recognised for periods of interrupted work activity. This new provision is outlined in Decree 175 of 30 November 2023, which reforms the sector's support mechanisms and allowances.

Similar to the Portuguese statute, the new Italian Code is expected to integrate increased labour protection for cultural professionals in dependent employment relationships with a set of rights granted to self-employed workers. To achieve this, Law 106/2022 specifies the need for distinct regulatory and economic protections for intermittent and casual labour contracts, as well as special protections for preparatory and instrumental activities. The same Law also aims to ensure that self-employed workers

receive fair wages that reflect the quantity, quality, complexity of the work performed, and obliges public authorities to remunerate all self-employed work in the performing arts resulting from public tenders or selective processes. The Law further acknowledges the roles of agents or representatives in live performances and establishes an Observatory of the Show, intended to inform the Ministry of Culture, particularly regarding working conditions.

It is important to analyse the specific role assigned to the Observatory in terms of monitoring situations where the employment relationship is incorrectly qualified. However, Law 106/2024 does not seem to emphasise this dimension significantly, in contrast to Portuguese law.

In fact, the Italian approach does not strongly highlight the presumption of labour association and the contractual modalities that accommodate intermittency—important tools of the French regime designed to address the discontinuous nature of cultural work and combat precarity.

It remains questionable whether the ongoing changes in the Italian legal regime align completely with the views expressed by some scholars advocating for a “unitary level of protection for professionals in the cultural sector.”³⁵. Nonetheless, the new Italian Code could represent a step forward in providing a response tailored to the specific needs of the sector and ensuring greater protection for its professionals.

9. References

- ALTÉS TÁRREGA, JUAN ANTONIO / ARADILLA MARQUÉS, MARÍA JOSÉ (2022), “La relación laboral especial de artistas tras el Real-Decreto-Ley 5/2022”, *Revista Jurídica de los Derechos Sociales, Lex Social*, vol. 12, núm. 2 (2022), pp. 1-29.
- CUNY, LAURENCE/ GU, XIN/ INTHAMOUSSÚ, MARTIN/ KESSAB, AMMAR (2022), *A crisis of sustainable careers? Examining working conditions for independent arts and cultural workers*, IFFACA, International Federation of Arts Council and Cultural Agencies.
- DÂMASO, MAFALDA (2021), *Research for CULT Committee – The situation of artists and cultural workers and the post-COVID 19 Cultural Recovery in the European Union: Background Analysis*, European Parliament.
- DRAY, GUILHERME, BARRIAS, JOSÉ (2023), *Estatuto dos Profissionais da Cultura Anotado. Decreto-lei n.º 105/2021, de 29 de Novembro. com a Redação Conferida Pelo Decreto-lei n.º 64/2022, de 27 de Setembro*, Editora d’ Ideias, Coimbra.

³⁵ VITALETTI, M (2022), *Lavoro e tempi dello spettacolo: uno studio sullo statuto giuridico dell’ artista*, , pp. 192-203.

EUROPEAN PARLIAMENT, *Draft Report with recommendations to the Commission on an EU framework for the social and professional situation of artists and workers in the cultural and creative sectors (2023/2051(INL))*.

EUROPEAN PARLIAMENT, *Resolution of 17 September 2020 on the cultural recovery of Europe 2020/2708(RSP)*.

EUROPEAN PARLIAMENT, *Resolution of 20 October 2021 on the situation of artists and the cultural recovery in the EU (2020/2261(INI))*.

FERNANDES, ANTÓNIO MONTEIRO (2018), «Deverá a subordinação jurídica manter-se como elemento qualificador? II Congresso Europeu de Direito do Trabalho. Os desafios atuais do Direito do Trabalho, Almedina, pp. 97-107;

GOMES, JÚLIO (2010), «Da fábrica à fábrica dos sonhos – primeiras reflexões sobre o regime dos contratos de trabalho dos profissionais», *Novos estudos de direito do trabalho*, Coimbra Editora, pp. 197- 231;

MÄKI, TEEMU/ RYNGBECK, ANNICA/ MICHALOWSKI, PIOTR (2021), «Fair pay, Collective Bargaining, Intellectual Property, Flattening Income Variations, Financial Support», in *Status and working conditions of artists and cultural and creative professionals*, Voices of Culture Report, Brussels, Chapter 2, pp. 14-15.

MAZZONI, GIULIANO (1977), *Manuale di Diritto del Lavoro*, vol. I, 5.^a edição, Giuffrè, Milano.

NETO, JOANA (2023), «A alteração ao Estatuto dos Profissionais da Cultura. Amputaram a nova presunção de laboralidade?», *Revista Internacional de Direito do Trabalho n.º 4*, Ano III, maio de 2023, Instituto de Direito do Trabalho, Faculdade de Direito da Universidade de Lisboa, pp. 181-218.

NETO, JOANA (2019), «Na boca de cena da desregulação. O regime jurídico do contrato de trabalho dos profissionais de espetáculo». Vila Nova de Famalicão, Novembro Editora.

OIT (2014), *Las relaciones de trabajo en las industrias de los medios de comunicación y la cultura*.

RAMALHO, MARIA DO ROSÁRIO PALMA (2018), «O contrato de trabalho dos profissionais de espetáculos: algumas notas», *Estudos de Direito do Trabalho em homenagem ao Professor António Monteiro Fernandes*, Vol. II, Capítulo IX, Nova Causa, pp. 224-246.

PEARL LIVE PERFORMANCE EUROPE (2023), *Pearl position on an EU framework for the social and professional situation of artists and workers in the cultural and creative sectors*, Bruxelas.

RUIZ, ALZAGA (2015), «La relación laboral especial de los artistas en espectáculos públicos: balance a los treinta años de su aprobación», *Revista del Ministerio de Empleo y Seguridad Social*, n.º 118, pp. 127- 265.

SNIJEDERS, JACQUELINE et. al. (2020), *The status and working conditions of artists and cultural and creative professionals*, Panteia.

- SUPIOT, ALAIN (2000), “Les nouveaux visages de la subordination” in *Droit Social*.
- UNESCO (2019), *Culture & Working Conditions for artists*, Paris.
- UNESCO (2020), *Culture in crisis: Policy guide for a resilient creative sector*.
- UNESCO (2021), *Culture and Creative Industries in the Face of Covid-19. An Economic Impact Outlook*.
- VENTURA, VICTOR HUGO (2022), *O estatuto dos profissionais da área da cultura: regime novo ou Mise-en scène (Decreto-lei n.º 105/2021, de 29 de novembro)*, Edições Almedina.
- VICENTE, JOANA NUNES (2018), «A disciplina do contrato a termo dos profissionais de espectáculo: relações de tensão entre a Lei 4/2008, de 7 de Fevereiro e a CRP e o Direito da União Europeia», *Prontuário de Direito do Trabalho II, 2017, n.º II*, Almedina, pp.259-279.
- VITALETTI, M (2022), *Lavoro e tempi dello spettacolo: uno studio sullo statuto giuridico dell’artista*, pp. 192-203.

Reflections on the Evolution of the Cultural Labour Market in Light of Socioeconomic Transformations in Romania

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Abstract: This paper reviews the newly introduced status of professional cultural workers in Romania, as defined by recent labour regulations. It assesses the legal framework and identifies issues within these regulations, including the potential adverse effects of distinguishing between ‘professionals’ and ‘non-professionals’. The study aims to influence and improve future civic and cultural policies.

Keywords: *Cultural activity; Assignment of author's patrimonial rights; Labour market in Romania; Professional cultural worker; Register of professional cultural workers.*

1. Introduction

The creative potential of cultural workers, their active participation in the labour market, and the development of the cultural and creative sectors, alongside their increased economic contribution, were addressed in Romania last year with the adoption of the Statute of the Professional Cultural Worker. This statute establishes a coherent framework of social protection and taxation applicable to certain professional categories engaged in artistic and cultural activities.

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The concept of a worker is subject to various interpretations within the European Union¹, as demonstrated by numerous studies and articles on the subject². The primary legal source³ for the definition of a worker in EU law is Chapter I (Workers), Articles 45-48 of Title IV of the Treaty on the Functioning of the European Union (TFEU)⁴. Typically, the notion of workers refers to salaried employees, while the self-employed enjoy the freedom of establishment and the freedom to provide services. A person retains worker status even if their salary is below the subsistence minimum established in the host Member State. In this context, Regulation (EU) No. 492/2011 of the European Parliament and Council of 5 April 2011 on the free movement of workers within the European Union is particularly relevant⁵.

EU institutions use various terms⁶ to describe the concept of a worker (e.g., migrant worker, national worker, permanent worker, seasonal worker, cross-border worker, and workers who are citizens of other Member States). The concept of a worker, which is not explicitly defined by EU rules⁷, has been clarified through the case law of the Court of Justice of the European Union (CJEU). Generally, workers are those who engage in economic activity, receive remuneration, and maintain a work relationship under the direction of another party. From this perspective, workers include employees regardless of their type of individual employment contract, individuals in professional training or internships, and civil servants, including those with special status.

¹ M. Risak and T. Dullinger, *The concept of „worker” in EU law. Status quo and potential for change*, ETUI, Bruxelles, 2018.

² E. Menegatti, *Taking EU labour law beyond the employment contract: The role played by the European Court of Justice*, in *Eur. Lab. Law Jour.*, 2020, Vol. 11(1), 26 ss.; E. Menegatti, *The Evolving Concept of “worker” in EU law*, in *It. Lab. Law e-Journal*, 2019, Vol. 12(1), 71 ss.; N. Countouris, *The Concept of ‘Worker’ in European Labour Law: Fragmentation, Autonomy and Scope*, in *Ind. Law Jour.*, 2018, vol. 47(2), 192 ss.; S. Giubboni, *Being a worker in EU law*, in *Eur. Lab. Law Jour.*, 2018, vol. 9(3), 1 ss.

³ L. Ala, *Conceptul de lucrător în Uniunea Europeană (The concept of worker in the European Union)*, <https://ibn.idsi.md>, accessed on 12 May 2023.

⁴ Published in the Official Journal of the European Union, C 326/47 of 26 October 2012.

⁵ <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011RO492:RO:OT>, accessed on 8 May 2023.

⁶ A.C. Popoviciu, *Lucrătorul în dreptul european (The worker in European law)*, Editura C.H. Beck, București, 2014, p. 471.

⁷ A. Țiclea, *Directiva (UE) 2022/2041 a Parlamentului European și a Consiliului din 19 octombrie 2022 privind salariile minime adecvate în Uniunea Europeană, [Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union]*, in the Romanian Labor Law Review no.1/2023, p. 33.

A notable CJEU judgment is found in case 337/97, C.P.M. Meeusen v. Hoofddirectie van de Informatie Beheer Groep, dated 8 June 1999⁸. The definition of a 'worker' adopted by the European Commission states: "Every citizen of a Member State has the right to work in another Member State. The term 'worker' has a specific meaning in EU law and cannot be subject to national definitions or restrictive interpretations. It refers to any person who performs real and genuine work under the direction of someone else for which they are paid. The term does not cover migrant workers from third countries." In case C-413/13, FNV Kunsten Informatie en Media v. Staat der Nederlanden, it was determined that the notion of 'worker' within the meaning of Union law must be defined by objective criteria characterising the employment relationship, considering the rights and obligations of both parties involved. Consistent case law establishes that an essential characteristic of this relationship is that a person performs services for another under their direction for a period in exchange for remuneration (see Decision N., C-46/12, EU:C:2013:97, paragraph 40, and related case law, as well as the Haralambidis Judgment, C-270/13, EU:C:2014:2185, paragraph 28).

Those exercising liberal professions (e.g., lawyers, self-employed individuals) are generally not considered workers. However, certain EU directives explicitly equate some other individuals (e.g., job seekers, unemployed persons able to work and previously employed, those incapacitated for work due to occupational diseases, and individuals who have reached retirement age in the host state) with workers⁹.

The CJEU has prudently ruled that the definition of a worker must be based on the existence of an employment relationship. The essence of this relationship is that an individual (the employee) performs activities for and under the management of another person (the employer) in exchange for remuneration. The nature and duration of the work are immaterial, but the activities must be real and effective¹⁰.

Artists and professionals involved in the cultural field have regained the attention of European and Romanian legislators, particularly due to the COVID-19 pandemic, which exposed pre-existing vulnerabilities in this industry, such as inconsistent incomes and inadequate social protection, further exacerbated by the bans imposed during that period.

⁸ <https://eur-lex.europa.eu, 61997CJ0337 - EN - EUR-Lex - European Union>, accessed on 12 May 2023.

⁹ I.T. Ștefănescu, *Tratat teoretic și practic de drept al muncii, (Theoretical and practical treatise on labor law)*, the fourth edition, revised and added, Universul Juridic Publishing House, 2017, pp. 80-81.

¹⁰ C.-A. Moarcăș, *Drepturile sociale ale lucrătorilor migranți (Social rights of migrant workers)*, Publishing House C.H. Beck, București, 2011, p. 298.

The European Parliament's Resolution of 20 October 2021 on the situation of artists and cultural recovery in the EU noted that a whole generation of young artists and cultural workers would face difficulties finding jobs in the cultural sector or enrolling in higher education in the arts due to reduced opportunities. It highlighted that artists under the age of 30 are particularly at risk of unemployment, accepting unpaid work, and facing abusive working conditions, such as non-payment of wages and precarious employment contracts. The resolution urged Member States to recognise the intrinsic value of culture and its fundamental role in society, development, well-being, the economy, and inclusiveness, and to translate this recognition into sustained financial and structural support.

Although efforts to adopt a European Statute of Artists have not yet materialised at the EU level, Romania introduced the Statute of the Professional Cultural Worker in April 2023. This regulation aims to mitigate the risks faced by cultural workers engaged in intermittent, heterogeneous, and unstable work, ensuring greater mobility at national and international levels, and promoting essential social dialogue in this sector through the establishment of professional associations by cultural workers¹¹.

2. The Contract for Carrying out Professional Activities

The recent regulation¹² of professional cultural¹³ workers includes a special type¹⁴ of contract to be used alongside the contract for the assignment of patrimonial rights, namely, the contract for carrying out cultural activity¹⁵.

Article 2(k) defines the professional cultural worker as “the author or performing artist, as defined in Law No. 8/1996, republished, with subsequent amendments and additions, and/or the individual engaged in a supporting or

¹¹ C. Roman, *Statutul lucrătorului cultural profesionist, între vechile probleme ale industriei și noile tendințe de reglementare (The status of the professional cultural worker, between old industry issues and new regulatory trends)*, www.juridice.ro, 24 august 2023.

¹² Emergency ordinance no. 21/2023 regarding the Status of the professional cultural worker, published in the Monitorul Oficial Gazette of Romania, Part I, no. 297 of April 7, 2023.

¹³ The author or performing artist, as they are defined in Law no. 8/1996, republished, with subsequent amendments and additions, and/or the natural person carrying out a supporting or auxiliary cultural activity, among those listed in the annex, who have been registered as such, for fiscal purposes, for a period of three years.

¹⁴ S. Voiculescu, *Care e specificul contractului de desfășurare a activității culturale? (What are the specifics of the cultural activity contract?)*, avocatnet.ro, 11 april 2023.

¹⁵ D. Țop, *Considerații cu privire la statutul lucrătorului cultural profesionist (Considerations regarding the status of the professional cultural worker)*, in the Romanian Labor Law Review no. 4/2023, pp. 33-64.

auxiliary cultural activity, as listed in the annex, who has been registered for fiscal purposes for a period of three years.”

Because they cannot conclude employment contracts, professional cultural workers have two types of contracts available to them, depending on the case:

- The Copyright Assignment Contract: This is an agreement by which the author or copyright owner transfers all or part of their copyright rights over a work to another person, usually in exchange for a fee. According to Article 42(1) of Law No. 8/1996 regarding copyright and related rights¹⁶, this contract must specify the transferred patrimonial rights and mention, for each of them, the methods of use, the duration and scope of the assignment, as well as the remuneration for the copyright holder. The absence of any of these provisions gives the interested party the right to request the cancellation of the contract, rather than its termination¹⁷, as it would be considered invalid.

- The Contract for Carrying Out Cultural Activity: Introduced by GEO No. 21/2023, this contract is an agreement concluded for a fixed period between a beneficiary of the cultural activity and the professional cultural worker, with the objective of performing a cultural activity.

A professional cultural worker cannot be an individual who exercises a regulated or liberal profession, is a public official, or carries out cultural activities in the form of salaried work under an individual employment contract.

To acquire the status of a professional cultural worker, the applicant must have achieved, in the fiscal year prior to the registration request, at least 50% of their income, subject to income tax as defined in Title IV “Income Tax” of Law No. 227/2015 regarding the Fiscal Code¹⁸, from the following sources: revenues from the transfer of copyright or related rights; independent activities in the categories listed in the annex¹⁹; and individual fixed-term employment contracts for cultural activities that expired by the date of submission of the registration application.

Making enrolment conditional on previous income from cultural activities means that those at the beginning of their careers cannot acquire the status of a professional cultural worker. Additionally, this status is contingent upon registration as a professional cultural worker, in accordance with Article 4. To register, applicants must submit an application at any time during the year to

¹⁶ Republished in the Official Monitor of Romania, Part I, no. 489 of June 14, 2018.

¹⁷ V. Roş, *Dreptul proprietăţii intelectuale (The right of intellectual property)*, Vol. I. *Copyright, related rights and sui-generis rights*, C.H. Beck Publishing House, 2016, p. 406.

¹⁸ Published in the Official Monitor of Romania, Part I, no. 358 of December 31, 2015, with amendments and subsequent additions.

¹⁹ It is about CAENs 5811, 5814, 5911, 5912, 5913, 5914, 5920, 5913, 5914, 5920, 7410, 7430, 7021, 7490, 8230, 8552, 9001, 9002, 9003, 9004, 9101, 9102, 9103.

the register of professional cultural workers²⁰, along with fiscal documents proving that at least 50% of their income is derived from cultural activities. If applicable, they must also provide a self-declaration confirming compliance with the conditions of Article 3(2) and an affidavit attesting to the accuracy and authenticity of the information submitted.

3. National register of professional cultural workers

As a general observation, artists, authors, and other beneficiaries of this normative act have the option²¹, but not the obligation, to register as professional cultural workers. If they choose to do so, they will benefit from the advantages offered by this special regime while also assuming the related obligations.

This register will be established (Article 73, paragraph 1) within 90 days of the entry into force of GEO No. 21/2023, through an order from the Minister of Culture, which will be published in the Official Gazette of Romania, Part I.

To register as a professional cultural worker, the applicant must have earned, according to Article 3, paragraph 1, in the fiscal year prior to the registration request, at least 50% of their income subject to income tax, as defined in Title IV "Income Tax" of Law No. 227/2015 on the Fiscal Code, cumulatively from: a) income from the assignment of copyright or related rights; b) independent activities listed in the annex; and c) individual fixed-term employment contracts for cultural activities that have expired by the date of submission of the registration application.

Income obtained from the exploitation of copyright or related rights acquired through assignment or inheritance, or from the assignment of copyright for scientific works or computer programmes, is not included in this calculation.

Alongside the application for registration, an applicant who earned income from intellectual property rights in the previous fiscal year must submit an affidavit regarding compliance with the conditions, as outlined in Article 3, paragraph 3.

²⁰ The public database, administered by the Ministry of Culture, which includes the identification information of natural persons registered as professional cultural workers: the unique registration number, the date of registration as a professional cultural worker and the date of termination of this registration, the mentions regarding the suspension of the quality of professional cultural worker, including the termination of the suspension and, as the case may be, the date of legal termination.

²¹ C. Roman, *Statutul lucrătorului cultural profesionist, între vechile probleme ale industriei și noile tendințe de reglementare* (The status of the professional cultural worker, between the old problems of the industry and the new regulatory trends), *loc. cit.*

To register as a professional cultural worker, the applicant can submit an application at any time during the year (Article 4, paragraph 1) to the registry administrator, along with fiscal documents proving the achievement of the 50% income threshold from cultural activities. If applicable, the applicant must also submit a declaration of personal responsibility regarding compliance with the conditions of Article 3, paragraph 2, and an affidavit regarding the authenticity of the information provided.

Fiscal documents demonstrating the income include a certificate for the previous fiscal year issued by the National Fiscal Administration Agency, the last single income declaration submitted in the previous fiscal year, and, if applicable, the administrative act authorising the activity—along with its CAEN code—issued by the National Trade Registry Office, and/or an income certificate issued by the employer, explicitly mentioning the position held and the employer's field of activity.

According to Article 4, paragraph 4, the application can be submitted in physical format or electronically to the registry administrator and will be approved or rejected within 30 days of submission.

The registry administrator verifies compliance with the conditions, approves the request, and communicates proof of registration to the applicant. If the conditions are not met, the request is rejected with a detailed explanation.

Approval or rejection of the application is communicated electronically within 30 days of submission. Failure to communicate within this period constitutes tacit approval of the application.

In case of rejection, the applicant can submit a prior complaint within 30 days of the communication to the registry administrator (Article 4, paragraph 7). The preliminary complaint is resolved within 30 days of its registration. If the preliminary complaint is rejected or not resolved within the stipulated period, the aggrieved party can notify the competent administrative court under the conditions provided by Administrative Litigation Law No. 554/2004²².

Within 30 days of notification of approval or, if applicable, from the expiry of the tacit approval period, the professional cultural worker must communicate to the National Agency for Fiscal Administration from their fiscal domicile, either physically or electronically, a registration request as a professional cultural worker. This request must be accompanied by proof of registration in the register or, if applicable, the application submitted to the registry administrator along with an affidavit regarding the fulfilment of the tacit approval conditions.

²² Published in the Official Monitor of Romania, Part I, no. 1154 of December 7, 2004, with the changes and subsequent additions.

Within 30 days of the application's registration, the National Fiscal Administration Agency at the applicant's fiscal domicile will issue a certificate of fiscal registration as a professional cultural worker, which will be communicated electronically within three days of issuance.

Proof of registration in the register is established, according to Article 4, paragraph 13, through: a) the ex officio issuance, via electronic means, by the registry of a unique registration number to the professional cultural worker, accompanied by their name, surname, and the date of registration, within 48 hours of the date of application approval; b) the issuance, at the request of the professional cultural worker, of a register extract, including the unique registration number, name, surname, date of birth of the professional cultural worker, date of registration, and, if applicable, the date of suspension, termination of suspension, and/or termination of the status of professional cultural worker; and c) the issuance, at the request of the professional cultural worker, of a registration certificate in the register, including the information specified in point b.

By communicating the registration request to the registry administrator, the professional cultural worker consents to the information provided in paragraph 13, letter b, being publicly accessible in the register.

If the conditions are not met, the National Agency for Fiscal Administration will communicate this finding to the registry within 30 days of issuing the administrative act of ascertainment and will proceed to deregister the individual recognised as a professional cultural worker within 15 days of the communication of the administrative act in question.

The administrative act establishing non-compliance with the conditions for acquiring the status of professional cultural worker can be challenged (Article 4, paragraph 19) under the conditions provided by Law No. 554/2004. Acceptance of the appeal through a final court decision is to be communicated by the appellant to the registry, restoring the appellant to their previous status.

Registration as a professional cultural worker is valid, according to Article 5, paragraph 1, for three consecutive fiscal years, starting from the date of registration in the register. At the end of this three-year period, the professional cultural worker can request an extension, provided that at least 50% of their taxable income over this period, on an annual average, comes from activities carried out as a professional cultural worker.

If this condition is not met, the individual retains the right to request registration as a professional cultural worker in the following year.

The extension is valid, according to Article 5, paragraph 4, for three consecutive years and can be requested whenever this period expires. The request must be made no less than 60 days and no more than 120 days before

the term expires, with the extension commencing from the date of term expiration.

The extension request must include the registration number in the register and be accompanied by income certificates for the period during which the individual was registered as a professional cultural worker, issued by the National Fiscal Administration Agency.

Registration is suspended by law, according to Article 6, paragraph 1, for reasons such as: a) maternity leave; b) leave for raising a child up to two years of age or, in the case of a disabled child, until three years of age; c) leave for caring for a sick child up to seven years old or, in the case of a disabled child, for intercurrent ailments, until 18 years of age; d) paternity leave; e) leave for temporary work incapacity; f) holding a position of public office, for the term of office; g) an individual employment contract for cultural activities on a fixed-term basis.

The professional cultural worker must notify the registry administrator and the National Tax Administration Agency of their fiscal domicile of the legal suspension within 15 days of its occurrence. The suspension will be recorded in the register starting from the date of communication registration. Failure to comply will result in termination of registration from the date the suspension cause occurred. The duration of registration will be extended accordingly with the suspension period. The cessation of the suspension cause must be communicated to the registry administrator and the National Agency for Fiscal Administration from the fiscal domicile within 15 days of its occurrence.

During the suspension, the professional cultural worker is not entitled to the rights established by collective agreements or the rights provided in this emergency ordinance (Article 6, paragraph 6).

Registration of the professional cultural worker will cease by law, according to Article 7, paragraph 1, in the following situations: a) upon concluding an individual employment contract for cultural activities for an indefinite period²³; b) as a penalty²⁴ for non-compliance with obligations under Article 6, paragraph 2, and Article 10, paragraph 1. This cessation as a penalty appears unclearly regulated, as it refers to the obligation to submit contracts concluded by professional workers engaged in cultural activities to the regime established by the ordinance. Such a significant sanction should have been clearly and

²³ The professional cultural worker has the obligation to communicate to the administrator of the register and the National Agency of Fiscal Administration from his fiscal domicile, within 15 days from the conclusion of the individual employment contract, the situation of legal termination.

²⁴ The professional cultural worker will not be able to submit a new application for registration in the next three years from the date of the finding by the National Fiscal Administration Agency of the situation of non-compliance with the obligation.

restrictively defined to avoid potential future criticism regarding the possible unconstitutionality of the rule due to a lack of predictability²⁵; c) in the case of death; d) at the expiration of the three-year registration period.

Registration can be terminated upon request, with the request submitted in writing to the registry administrator and the National Agency for Fiscal Administration from the fiscal domicile, effective from the date of request registration.

The registry administrator will deregister the individual whose status as a professional cultural worker has legally ceased within 30 days of the date of request registration for termination or following the finding of one of the situations specified in letters b-d.

4. The Legal Regime Applicable to Professional Cultural Workers

In carrying out their activities, professional cultural workers conclude contracts for the assignment of patrimonial rights in accordance with Law No. 8/1996 regarding copyright and related rights, and/or contracts for cultural activities.

According to Article 8, paragraph 2, the contract for the performance of cultural activities is defined as an agreement concluded for a specified duration between a beneficiary of the cultural activity and the professional cultural worker, with the object of performing a cultural activity. In the case of performers, the assigned patrimonial rights are specified (Article 8, paragraph 3) as a separate object within the contract for the performance of the cultural activity.

As outlined in Article 8, paragraph 4, the contract for the performance of cultural activities must be made for activities listed in the annex, or comparable to them, or under the conditions specified in Article 8, paragraph 2. The contracts concluded by professional cultural workers must, according to Article 8, paragraph 5, include, under penalty of nullity, the date of registration of the professional cultural worker in the register and the unique registration number. The contract for the development of cultural activities must also include (Article 8, paragraph 6), under penalty of nullity, the conditions for ensuring health and safety at work during the performance of the activity.

It has been noted that “from a legal perspective, we are witnessing the introduction of a new category of contracts, namely cultural activity contracts. In the legislator's view, these represent agreements concluded for specific periods with the object of carrying out cultural activities. It remains to be seen

²⁵ C. Roman, *Statutul lucrătorului cultural profesionist, între vechile probleme ale industriei și noile tendințe de reglementare* (The status of the professional cultural worker, between the old problems of the industry and the new regulatory trends), *loc. cit.*

how the provisions of the ordinance will be interpreted in practice concerning the ability of the professional cultural worker to conclude copyright assignment contracts and contracts for the performance of cultural activities.”

Income obtained from cultural activity contracts concluded after the individual’s registration in the register constitutes income from independent activities. This provision aims to eliminate the risk²⁶ of reclassification as dependent activities, which had posed legal and fiscal challenges. Alongside this advantage, the obligation of artists to submit unique declarations and pay the relevant contributions, as per the terms, conditions, and exemptions set out in the legislation regarding social insurance and possibly health insurance contributions, is also clarified.

The registration of the taxpayer, a natural person, in the register is considered (Article 8, paragraph 8) a criterion for the independence of the activity concerning income classification. For the income earned, professional cultural workers are liable for tax and mandatory social contributions, as specified for incomes from independent activities or intellectual property rights as applicable. The professional cultural worker is obliged to submit a single declaration and pay social contributions under the terms, conditions, and exceptions provided by the applicable fiscal legislation when they are required to pay social insurance and/or health insurance contributions. The tax owed by professional cultural workers for income obtained from contracts for the performance of cultural activities is withheld at source by the income payer at the time of payment and represents the final tax. For income obtained from contracts for the performance of cultural activities under the conditions of paragraph 4, letter a, net taxable income is calculated by applying a flat-rate deduction of 40% to the gross income.

The period during which the individual was registered as a professional cultural worker constitutes, according to Article 9, paragraph 1, seniority in work and in the profession. Contracts concluded by professional cultural workers with beneficiaries who have the capacity of contracting authority under Law No. 98/2016 on public procurement are eligible, provided that their assignment complies with the legal provisions in the field of public procurement. A professional cultural worker who concludes a contract with a performance or concert institution and does not reside in the locality where the institution operates can receive, from the institution's budget, according to Article 9, paragraph 3, a fixed monthly non-taxable amount, up to 50% of the average net salary in the economy, to cover accommodation expenses for the entire duration of the contract.

²⁶ *Idem.*

Contracts for carrying out cultural activities, concluded according to Emergency Ordinance No. 21/2023, are considered eligible expenditure under the legislation on non-reimbursable financing of national projects and programmes. All contracts concluded by a professional cultural worker in the course of a cultural activity are subject to the provisions of Article 10, paragraph 1, and the regulations provided by Emergency Ordinance No. 21/2023. Any violation of these obligations is recorded by the fiscal authorities and can be reported to them by any person. The legal termination of the status of professional cultural worker, under the conditions of Article 7, paragraph 1, letters a and b, triggers (Article 10, paragraph 2) the recalculation of the fiscal obligations of the individual, as the provisions of Article 8, paragraph 12, will no longer apply for the period between the date on which the legal termination occurred and the date of the finding of this termination.

Income payers of professional cultural workers owe, according to Article 11, paragraph 1, an insurance contribution equivalent to 1% of the value of each contract concluded with a professional cultural worker. This contribution is declared and transferred under the conditions applicable to the insurance contribution for work, in accordance with the provisions of Article 2206 of Law No. 227/2015. Concerns have been raised that companies contracting cultural projects²⁷ may budget this contribution as an additional cost, potentially reducing the net income of the cultural worker.

Income payers of professional cultural workers are obliged to submit a declaration every six months, by the 25th of the month following the semester, detailing the payment obligations of the insurance contribution and the nominal record of individuals for whom the contribution was paid. The model, content, method of submission, and management of the declaration are regulated by a joint order from the president of the National Agency for Fiscal Administration, the president of the National Health Insurance House, and the president of the National Agency for Employment, with the consultation of the National Agency for Payments and Social Inspection and approval from the Ministry of Finance, the Ministry of Labour and Social Solidarity, and the Ministry of Health. The declaration must be submitted electronically via the e-România portal. The personal data included in the declaration are processed in accordance with the conditions established by the General Data Protection Regulation and its implementing legislation.

This requirement has been criticized as a new, disincentive declaratory obligation: “In the context of an increasingly challenging administrative task

²⁷ C. Roman, *Statutul lucrătorului cultural profesionist, între vechile probleme ale industriei și noile tendințe de reglementare* (The status of the professional cultural worker, between the old problems of the industry and the new regulatory trends), *loc. cit.*

due to the implementation of SAF-T, electronic invoicing, and other similar obligations, the establishment of a new declaratory obligation with the nominal indication of the beneficiaries of such revenues will further complicate the activities of the affected economic operators, generating higher costs associated with installing specialised software or hiring personnel to manage such aspects”²⁸.

The declaration must include at least: a) identification details of the legal entity submitting the declaration; b) the fiscal identification number assigned by the fiscal authority; c) the name, surname, personal numerical code, and unique registration number in the register of professional cultural workers with whom contracts were concluded during the reporting period; and d) data concerning the revenues related to the concluded contracts.

Records of insurance contribution payment obligations are maintained based on the fiscal identification code. Professional cultural workers have, according to Article 12, the following rights: a) the right to participate and collectively represent their interests to improve working conditions and defend their rights; b) the right to form or join a professional association; and c) the right to consultation or exchange of information.

According to Article 13, paragraph 1, professional cultural workers contributing to public health insurance systems have, as insured individuals, the following rights: a) sick leave and allowances for temporary incapacity to work due to common illnesses or accidents outside of work; b) sick leave and maternity allowances; c) sick leave and allowances for the care of a sick child; and d) sick leave and maternity risk allowances.

The basis for calculating these allowances is established under the provisions of Government Emergency Ordinance No. 158/2005 regarding holidays and social health insurance allowances, as amended and supplemented by Law No. 399/2006²⁹. Incidents that occur during a professional cultural worker's activity, based on a contract for the performance of cultural activity, at the headquarters, branch, workplace of the beneficiary of the activity, or in the space designated by them, are communicated and investigated in accordance with Chapter VI “Communication, Investigation, Recording, and Reporting of Events” of the Occupational Health and Safety Law No. 319/2006³⁰.

Professional cultural workers, as stated in Article 14, are entitled to unemployment allowance if they cumulatively meet the following conditions: a) have at least 12 months of contributions in the last 24 months preceding the application for unemployment allowance; b) do not earn income or, if engaged

²⁸ *Idem*.

²⁹ Published in the Official Monitor of Romania, Part I, no. 901 of November 6, 2006.

³⁰ Published in the Official Monitor of Romania, Part I, no. 646 of July 26, 2006.

in authorised activities, achieve income lower than the value of the reference social indicator in force³¹; c) do not meet the conditions for retirement, according to the law; d) are registered at the employment agencies in their area of residence or domicile before the application for unemployment allowance is submitted; and e) have not signed any contracts for the assignment of patrimonial rights or for carrying out cultural activities as a professional cultural worker in the 60 days preceding the application for unemployment allowance.

Unemployment compensation is granted from the expiry of the term. Unemployment compensation is provided to individuals specified in Article 14, paragraph 1, for varying established periods, depending on the contribution period, as per Law No. 76/2002 regarding the unemployment insurance system and employment stimulation³². The contribution period refers to the duration for which the individual was registered as a professional cultural worker and was compulsorily insured in the unemployment insurance system, or the period during which the individual voluntarily insured themselves by concluding an unemployment insurance contract and properly paying the contributions.

Professional cultural workers receiving unemployment allowances have, according to Article 14, paragraph 5, the following obligations: a) to appear monthly, based on a schedule or as requested, at the employment agency where they are registered³³; b) to notify the employment agency of any changes affecting their entitlement within three days; c) to participate in employment stimulation and professional training services offered by the employment agency; d) to actively seek opportunities to resume cultural activities or secure employment; and e) to inform the employment agency of any temporary

³¹ The value of the reference social indicator is currently 598 lei.

³² Published in the Official Monitor of Romania, Part I, no. 103 of February 6, 2002, with the amendments and subsequent additions.

³³ The obligation does not apply in the situation where the persons benefiting from unemployment allowance participate in professional training programs, organized under the law, whose financing is ensured from the assistance non-refundable financial aid received by Romania, as a member state of the European Union, through the European Regional Development Fund, the European Social Fund and the Cohesion Fund. The obligation does not apply during the period in which people participate in these professional training programs, in the conditions in which, prior to inclusion in these programs, were not included in the services for stimulating employment and professional training offered by the employment agency work and is in the period of providing these services. However, they have the obligation to present monthly, on the appointment date provided in para. 5 lit. a, the employment agency where the proof of participation is registered them to professional training programs whose financing is ensured from the non-refundable financial assistance received by Romania, as a member state of the European Union, through the European Fund regional development, the European Social Fund and the Cohesion Fund, or, as the case may be, proof of participation in their graduation exam.

incapacity for work, providing the name of the prescribing doctor and the unit where they practice, within 24 hours of receiving medical leave. If the temporary incapacity occurs on non-working days or the 24-hour period ends on a non-working day, the individual must notify the employment agency on the first working day thereafter.

Unemployment compensation is paid monthly, with any fractions of a month calculated proportionally to the number of calendar days in that month. The payment of unemployment allowances will cease under the following circumstances: a) on the date of employment, according to the law, for an indefinite period or a fixed period exceeding 12 months; b) on the first day of the month following the month in which the individual earns monthly income from authorised activities that exceeds the value of the reference social indicator; c) on the date of concluding a contract as a professional cultural worker under the conditions of this emergency ordinance; d) if the period for retirement due to disability exceeds 12 months; e) on reaching the retirement age, from the date of requesting early retirement or partial early retirement; f) upon leaving the country for a period longer than three months; g) upon the commencement of a custodial sentence exceeding 12 months; h) in the case of the beneficiary's death; or i) upon beginning to carry out activity in elected positions or upon being appointed to executive, legislative, or judicial authority for the duration of the mandate.

The suspension of the payment of unemployment allowances and their reinstatement occurs as stipulated in Article 14, paragraph 11, under the conditions provided by Law No. 76/2002. Any amounts improperly granted from the unemployment insurance budget, as well as any other debts established against it, will be reclaimed following the appropriate provisions of Law No. 76/2002. Beneficiaries of unemployment benefits are insured within the state social insurance system and the social health insurance system under the conditions set forth by Law No. 76/2002. The status of professional cultural workers will not serve as the sole form of work for those in the cultural field, but rather as an alternative³⁴, bringing them closer to the status of employees in terms of certain rights.

The income obtained through these contracts is classified as income from independent activities. The tax owed by professional cultural workers (LCP) for income derived from contracts for the performance of cultural activities is withheld at source by the income payer at the time of payment, thus representing the final tax. Professional cultural workers will be entitled to sick leave and associated allowances in accordance with their recently regulated

³⁴ S. Voiculescu, *Care e specificul contractului de desfășurare a activității culturale? (What are the specifics of the cultural activity contract?)*, loc. cit.

status, as outlined by this ordinance, as well as to unemployment benefits. They have the right to receive sick leave allowances from the income payer (who will subsequently recover it from the state) during the period of medical incapacity (including maternity or risk leave) related to themselves or their child. However, the ordinance³⁵ does not currently specify the amount of this allowance. Income payers of professional cultural workers are obliged to contribute 1% of the value of each contract concluded with a professional cultural worker as an insurance contribution.

Chapter V (Articles 15-26) contains comprehensive regulations concerning “measures to support the training and qualification of professional cultural workers.” In line with this objective, the National Mobility Programme is established under Article 15, paragraph 1. This programme is funded from the state budget, through the Administration of the National Cultural Fund, which serves as the financing authority, with the annual amount determined by order of the Minister of Culture by 15 May each year. In accordance with Law No. 367/2022 on social dialogue³⁶, which recognises the right of self-employed workers to form and join a trade union³⁷, professional cultural workers are entitled to participate and collectively represent their interests to enhance working conditions and defend their rights. They also have the right to form or join professional associations and to consult or exchange information.

The establishment of professional associations for cultural workers is comprehensively governed in Chapter VI (Articles 27-67) of GEO No. 21/2023. Professional associations of cultural workers operate independently of public authorities, political parties, organisations for beneficiaries of activities, and any other non-governmental organisations, including collective management bodies or creative unions. According to Article 27, paragraph 3, professional associations of cultural workers are prohibited from engaging in political activities. The establishment or membership of these professional associations, as defined by Emergency Ordinance No. 21/2023, does not conflict with, nor does it restrict, as specified in Article 27, paragraph 4, the right of professional cultural workers to affiliate with other associations or creative unions that have been or will be established or to associate freely for any other purpose.

³⁵ S. Voiculescu, *Lucrătorii culturali profesioniști vor avea dreptul la concedii medicale și ajutoare de șomaj* (Professional cultural workers will be entitled to sick leave and allowances unemployment), *avocatnet.ro*, 17 April 2023.

³⁶ Published in the Official Monitor of Romania, Part I, no. 1238 of December 22, 2022.

³⁷ M. N. Balabuti, E. T. Nicolau, *Câteva considerații critice cu privire la noua Lege a dialogului social* (Some critical considerations regarding the new Law a social dialogue), in the Romanian Labor Law Review no.1/2023, p. 47.

5. Conclusions

Although the aim of the Professional Cultural Worker Status Ordinance is commendable, addressing a pressing need to provide additional protection to workers in the cultural sector, the manner in which the status has been conceived — dividing workers into professionals and “non-professionals”— along with regulatory shortcomings, could ultimately do a disservice³⁸ to these workers if the Ordinance is not significantly amended by Parliament.

This normative act includes very broad regulations concerning certain aspects ancillary to the status of cultural workers, such as professional training and their association. It would be more appropriate to refer, at least in the latter case, to general law. Unfortunately, many of the effects of the Ordinance are delayed due to the absence of a register of professional cultural workers. The methodological rules and any changes introduced by the approval law³⁹ will, hopefully, bring⁴⁰ more clarity without further increasing the administrative burden on companies that choose to collaborate with professional cultural workers.

Of course, this legal framework, which outlines the Status of the Professional Cultural Worker, can be improved in the future to ensure it has the desired impact on society.

6. Bibliography

Books

1. Moarcăș, C.-A., *Drepturile sociale ale lucrătorilor migranți (Social rights of migrant workers)*, Editura C.H. Beck, București, 2011
2. Popoviciu, A.C., *Lucrătorul în dreptul european (The worker in European law)*, Editura C.H.Beck, București, 2014

³⁸ S. Voiculescu, *Câteva motive pentru care statutul lucrătorului cultural profesionist trebuie să cunoască modificări semnificative în Parlament (A few reasons why the professional cultural worker status must know significant changes in Parliament)*, avocatnet.ro, 25 April 2023.

³⁹ The form of this project already adopted by the Senate seems to bring certain changes that are in favour beneficiaries of this regulation (such as a 50% reduction in the health contribution for the first three years taxes from the registration or exemption, for the period 2023 - 2026 from the payment of tax on the earned income from the assignment of patrimonial rights and from the execution of cultural activity contracts concluded accordingly ordinance), opening the way to possible improvements and adjustments within the normative act.

⁴⁰ C. Roman, *Statutul lucrătorului cultural profesionist, între vechile probleme ale industriei și noile tendințe de reglementare (The status of the professional cultural worker, between the old problems of the industry and the new regulatory trends)*, loc. cit.

3. Roș, V., *Dreptul proprietății intelectuale (The right of intellectual property)*, Vol. I. Dreptul de autor, drepturile conexe și drepturile sui-generis (Copyright, related rights and sui-generis rights), Editura C.H. Beck, 2016
4. Ștefănescu, I.T., *Tratat teoretic și practic de drept al muncii (Theoretical and practical treatise on labor law)*, IVth edition, revised and added, Editura Universul Juridic, 2017.

Articles

1. Balabuti, M. N.; Nicolau, E. T., *Câteva considerații critice cu privire la noua Lege a dialogului social (Some critical considerations regarding the new Social Dialogue Law)*, Revista română de dreptul muncii nr.1/2023 (Romanian labor law magazine no. 1/2023)
2. Țiclea, A., *Directiva (UE) 2022/2041 a Parlamentului European și a Consiliului din 19 octombrie 2022 privind salariile minime adecvate în Uniunea Europeană, [Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022 on adequate minimum wages in the European Union]*, in Revista română de dreptul muncii nr.1/2023 (Romanian labor law magazine no. 1/2023)
3. Țop, D., *Considerații cu privire la statutul lucrătorului cultural profesionist, (Considerations regarding the status of the professional cultural worker)*, Revista română de dreptul muncii no. 4/2023 (Romanian labor law magazine no. 4/2023)

Internet sources

25. <https://eur-lex.europa.eu>, 61997CJ0337 - EN - EUR-Lex - European Union, accessed on 12 May 2023
 26. <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32011R0492:RO:NOT>, accessed on 8 May 2023
 27. Luca, A., *Conceptul de lucrător în Uniunea Europeană (The concept of worker in the European Union)*, <https://ibn.idsi.md>, accessed on 12 May 2023
 28. Roman, C., *Statutul lucrătorului cultural profesionist, între vechile probleme ale industriei și noile tendințe de reglementare (The status of the professional cultural worker, between old industry issues and new regulatory trends)*, www.juridice.ro, 24 August 2023
 29. Voiculescu, S., *Care e specificul contractului de desfășurare a activității culturale?, (What are the specifics of the cultural activity contract?)*, avocatnet.ro, 11 April 2023
 30. Voiculescu, S., *Lucrătorii culturali profesioniști vor avea dreptul la concedii medicale și ajutoare de șomaj (Professional cultural workers will be entitled to sick leave and unemployment benefits)*, avocatnet.ro, 17 April 2023
- Voiculescu, S., *Câteva motive pentru care statutul lucrătorului cultural profesionist trebuie să cunoască modificări semnificative în Parlament (Some reasons why the status of the*

*professional cultural worker must undergo significant changes in Parliament), avocatnet.ro,
25 April 2023.*

Recovery and Resilience in Croatia: Education for the Acquisition of Work-related Skills

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Abstract. The Covid-19 pandemic caused a significant disruption on European labour market. Companies were declaring workers redundant, and governments had to rely on national job preservation policies to prevent the rise of unemployment and income loss. It became obvious that, with the shift in the labour market and the emergence of new skills and knowledge that were required, it was necessary to focus on education and training, for there was a mismatch between the needs of the economy and the shortage of labour force. The EU's NextGenerationEU plan was introduced as a strategy to emerge stronger from the pandemic and the Member States will be able to use grants and loans to finance reforms and investments under the Recovery and Resilience Facility. Its component that is based on strengthening the development of science and education system, as well as on lifelong learning should be one of the foundations of Croatia's competitiveness, all the while encouraging the growth of deficient professions, mainly in the form of a scheme called Education for the acquisition of competencies necessary for work through vouchers, that represents a financial instrument for allocating public funds for adult education and is a part of national active labour market policy package.

Keywords: post-Covid recovery; adult education; active labour market policies; acquisition of work-related skills.

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Introduction

Four years before the completion of this paper, on 30 January 2020, the World Health Organization officially announced that there was a public health threat of international importance¹ due to an outbreak of a virus we all later came to know under the name Covid-19. From that moment on, the whole world was forced to comply to extreme, immediate changes, affecting every sphere of human life – public health, economic activities, social interactions, labour market, global travel and tourism... the world as we knew it changed drastically, basically overnight, and ever since then we've entered into an era known as post-Covid times, where we analyse facts, concepts, occurrences, i.e. through the sphere of the effect that the pandemic has had on them, always taking it into account as a significant factor.

This paper's main focus is the subject of adult education and the challenges it has faced since 2020 in Croatia, predominantly focusing on the measure implemented by the Croatian Employment Service (CES) and funded from the Recovery and Resilience Facility (RRF), but before we actually dive into the subject itself, it is necessary to put into perspective how the labour market has changed in the meantime due to the effects of the pandemic, and how it forced the workforce to transform as well, putting into the foreground various skills and knowledge that haven't been in high-demand before, while putting some others into surplus, reshaping the ratio of supply and demand, and therefore placing the workers in a position where it was expected from them to evolve accordingly. Brushing up one's skills doesn't simply happen overnight, since the whole education system has to reassess itself in order to take on the new challenges, and where tertiary education takes more time to be implemented, with taking into account the time needed for the students to finish their selected programmes, adult education might be the right option when it comes to demands of the newly evaluated labour market and its needs.

Firstly, we will touch upon the 2020 situation and the different measures that emerged in the EU as well as in Croatia, most of them focused on preserving workplaces, before we discuss the labour market situation in Croatia in numbers. Also, we will mention the different active labour market policies offered by the Croatian Employment Service that have been in use, one of them also being Education for the acquisition of competencies necessary for work through vouchers – one that has been funded through NextGenerationEU plan and its Resilience and Recovery Facility - introduced as a strategy to emerge stronger from the pandemic, transform the economies and

¹ C. Liu, *The World Health Organization: A Weak Defender against Pandemics*, *Virginia Journal of Social Policy & the Law* 28, no. 2 (2021): 174-218, p. 196.

societies, and design an inclusive society². By investing in the education of its workforce, providing them with adult learning and training, Croatia hopes to be on the right path towards maintaining a competitive and sustainable labour market in the years to come. The final part of this paper provides us with a detailed description of the Education for the acquisition of competencies necessary for work through vouchers measure itself and its current assessment.

1. The post-Covid society

The effects Covid-19 had on the labour markets and employment rates across the globe were unprecedented – not even comparable to the economic crisis from 2008, its consequences resulting in a long recession for the whole world. It placed a growing number of businesses in danger, putting the jobs of more and more workers at risk, impacting the livelihoods of many citizens, and forcing policy makers to come up with solutions in the form of measures that would support jobs and businesses, whether it be small businesses, big corporations, or self-employed individuals - everyone was included in the protection plan.

The rift between insiders and outsiders on the labour market was sharpened, as many individuals did not have adequate digital skills, ones that were suddenly in high demand. By moving to smart working, those who already had a well-defined network and digital skills were given an advantage. There has been a polarization that has disadvantaged some categories of people - individuals with lower education levels, women, and people who were economically fragile. The digital skills gaps affected not only companies, causing low productivity, and hindering their ability to access markets, but also society in exploiting the potential of digitization and in providing digital services³.

According to Eurofound, back in early 2020, the citizens of the Member States expressed great distrust in the institutions of the Union, as well as in their national executive power representatives⁴, not having high expectations that they would be able to deal with the upcoming problems in an appropriate way, because the introduction of fitting economic and epidemiological measures

² European Union, NextGenerationEU, https://next-generation-eu.europa.eu/index_en. (accessed August 15, 2023)

³ D. Schilirò, *Digital transformation, COVID-19, and the future of work*, *International Journal of Business Management and Economic Research* (IJBMER), 2021, Vol. 12., p. 8

⁴ M. Fana *et al.*, *Employment impact of Covid-19 crisis: from short term effects to long terms prospects*, *Journal of Industrial and Business Economics* (2020) 47:391–410, p. 402

was arbitrarily left to each Member State⁵, letting them deal with it on their own and it showed lack of coordinated efforts on the EU level. Realizing that it was necessary to act quickly with the common goal of mitigating the consequences of the pandemic, the EU leaders started working on a recovery plan for Europe and committed themselves to establishing a recovery fund whose purpose would be to reduce the effects of the inevitable, upcoming crisis and provide support, mainly one of a financial nature, to citizens, companies and Member States on their way to economic recovery⁶.

A €540 billion emergency rescue package was adopted in April 2020, which provided €200 billion in financing for companies⁷ and the creation of a new fund of up to €100 billion to support Member States implementing short time working schemes in an effort to safeguard jobs during the pandemic (known as the SURE1 initiative). The flexibility of the use of the Structural Funds has also been increased to allow Member States to transfer money between different funds and regions to ease the impact of the pandemic. Most measures were aimed at supporting businesses to stay afloat, while some of them sought to protect incomes (beyond short-time working) and a smaller number of them focused on the protection of employment (mostly linked to short-time working schemes). Immediate policy attention was therefore directed towards sustaining and enhancing the delivery of essential services, including through the reallocation of workers from other sectors. During the early phase of the pandemic, according to OECD, measures to ensure business continuity by changing work arrangements primarily involved temporary derogations from working time and leave provisions, trying to ensure uninterrupted functioning of healthcare provision.⁸

This was also the case in Croatia, where on March 17, 2020, the Government of the Republic of Croatia adopted a total of 63 measures to help the economy, with the main goal of preserving existing jobs and the uninterrupted continuation of salary payments to those who have stayed in employment. The measures were coordinated with economic associations and unions, as well as with the joint European efforts to combat the economic damages caused by

⁵ I. M. Pascu, A. Nunweiler-Balanescu, *Implications of the COVID-19 Pandemic, Europolity: Continuity and Change in European Governance* 14, 2020, no. 2. 39-54, p. 46

⁶ European Council, COVID-19 coronavirus pandemic: the EU's response, <https://www.consilium.europa.eu/en/policies/coronavirus/>, (accessed August 15, 2023)

⁷ Particularly small and medium enterprises, as those were thought to be at risk the most

⁸ Eurofound, *COVID-19: Policy responses across Europe, Publications Office of the European Union*, Luxembourg, 2020, p. 17

the Covid-19 virus⁹. The haste in which they have been announced was mostly to the public pressure, workers' unions and employers' associations asking for the government to intervene as quickly as possible.

Given that even before the declaration of the epidemic in Croatia, there were grants for preserving jobs, which have only been expanded by a new measure officially named "Grants for preserving jobs in industries affected by the Coronavirus" - this new measure was primarily intended for employers from sectors that were considered to be more affected by the impact of the virus¹⁰. In March 2020, the amount of support was first determined at €431.35 per month per full-time worker, and in April 2020 the amount was increased to €530.89 per worker, having average monthly salary in mind. Employers who were beneficiaries of another measure provided by the Croatian Employment Service¹¹, after the expiry of the period of use of support for job preservation, could continue to use their original measure for the remaining period, meaning that it was not possible to simultaneously combine the support measures with another measure of active labour market policy programme.¹²

In these post-Covid times, most of these measures aren't required anymore and they have been scrapped, not being actively used by the countries, serving their purpose throughout the previous years, yet they helped reshaping the future of work and labour market needs, keeping businesses afloat and workers taken care of financially. In Croatia, they were a part of the active labour market policy scheme up to mid-2022, where some employers continued using them until the end of the year. From 2023 on, the focus should be on the ways in which the world of work could adapt to the new challenges and instead of financing the existing ways and keeping businesses simply afloat, attention should be turned to the way in which new schemes and measures could be introduced and the existing workforce 'revamped', investing into human capital instead.

⁹ Jutarnji list, Analiziramo 63 Vladine mjere za spas ekonomije, <https://novac.jutarnji.hr/novac/aktualno/analiziramo-63-vladine-mjere-za-spas-ekonomije-10104685>, (accessed August 17, 2023)

¹⁰ Godišnjak 2020, Hrvatski zavod za zapošljavanje, Zagreb, 2021, p. 40

¹¹ Croatian public body, an employment service funded by the government and the body that was responsible for allocating the funds, in further text referred to as CES

¹² Od mjere do karijere, Mjere aktivne politike zapošljavanja, <https://arhiva.mjere.hr/admin/wp-content/uploads/2020/03/IZMJENE-MJERE.HR-26-03-za-web-pdf.pdf> (accessed August 10, 2023)

2. Labour Market Challenges in Post-Covid Times

2.1. Human Capital Theory and Adult Education

The term “human capital” has been widely introduced in the 1960s, Schultz describing people acquiring useful skills and knowledge as something obvious, yet those counting as a form of a capital as something less obvious, even though this capital is in substantial part a product of deliberate investment, in Western societies growing at much faster rate than conventional capital.¹³

The theory of human capital compares acquired skills and knowledge to other income earning capital, such as monetary deposits in banks or stocks, since all of these are forms of capital in a sense that, over longer periods of time, they yield income and other useful outputs. Instead of physical or financial capital, this form of capital cannot be separated from a person, their knowledge, skills and values remaining closely tied with their owner.¹⁴

Becker analyses education and training as the most important investments in human capital, relating a person’s level of education with their income, where the earnings of more educated people are almost always above average.¹⁵ Here, the human capital is equal to physical capital since its acquisition implies a cost in present, but brings profit in the future through increased income. Within this theory, education is viewed as an investment activity that contributes to the creation of human capital¹⁶. Most investments in human capital—such as formal education, on-the-job training, or migration, raise a person’s earnings as they get older, because returns are part of their earnings then, and lower them at younger ages, because costs are deducted from earnings at that time.¹⁷ A healthy labour force is an important determinant of competitiveness and the economy development. We need to create an agile and capable workforce, ready to take risks, able to think independently, process information and solve problems. Acquiring new knowledge and skills has become is a lifetime commitment¹⁸.

The mismatch between education policy and labour market needs is a structural a problem that cannot be solved overnight, and the analysis of

¹³ T. Schultz, *Investment in human capital*, *American Economic Review*. Vol 51. 1931, 1–17, p. 1

¹⁴ G. Becker, *Human capital*, The University of Chicago Press, London and Chicago, 1993, pp. 15-16

¹⁵ G. Becker, *Human capital*, *op.cit.*, p.17

¹⁶ M. Bečić, *Značaj obrazovanja na tržištu rada prema ekonomskoj teoriji*, *Ekonomska misao i praksa* (1), 2014, 213-232, p. 215

¹⁷ G. Becker, *Human capital*, *op.cit.* p. 245

¹⁸ P. Bejaković, *Uloga obrazovnog sustava u postizanju zapošljivosti i konkurentnosti radne snage u Hrvatskoj*, *Društvena istraživanja - Časopis za opća društvena pitanja*, 15(83), 2006, 401- 425, p. 406

Croatian labour markets shows large mismatches between existing market needs and the supply of adequate workforce. As part of the implementation of active employment policy measures, the before mentioned public employment service CES, also deals with analysis, assessments and forecasts of future market needs¹⁹.

In Croatia, adult education is embedded in the concept of lifelong learning. It can be conducted as formal, non-formal, informal and self-directed learning²⁰. The most important steps in the development of the adult education system are the adoption of the Adult Education Strategy in November 2004, the establishment of the Adult Education Agency in May 2006 (becoming Agency for Vocational Education and Training in 2010) and the adoption of the Adult Education Act in February 2007 (and its 2021 revision). By the enactment of the Adult Education Act, the normative framework was established and legal preconditions for the further development of adult education and training as a full-fledged part of the entire Croatian education system were created²¹. Far from it that adult education didn't exist in Croatia before that, but it was an important step towards giving it a legitimate, legal framework. According to the Adult Education Act, the main objectives of adult education are:

- exercising the right to free personality development,
- training for future employability - acquisition of qualifications for the first occupation, retraining, acquisition and deepening of professional knowledge, skills, and competences and
- training for civic participation.²²

The Adult Education Act recognizes the difference between formal and informal education, defining formal education as programmes implemented in accredited institutions for adult education (at the elementary, secondary and higher, tertiary education levels). These programmes are approved by the competent state bodies, and upon their completion, recognized certificates or qualifications are obtained, which are evidenced into one's permanent employment record. On the other hand, informal education is a form of education that does not lead to the acquisition of new qualifications, but includes shorter, organized learning processes aimed at training the individual for future work, i.e. improving his personal and professional skills. Both types

¹⁹ A. Obadić, *Nezaposlenost mladih i usklađenost obrazovnog sustava s potrebama tržišta rada*, *Ekonomika misao i praksa* (1), 2017, 129-150, p. 140

²⁰ European Commission, Eurydice, <https://eurydice.eacea.ec.europa.eu/national-education-systems/croatia/adult-education-and-training> (accessed August 23, 2023)

²¹ Agency for Vocational Education and Training, Adult Education, <https://www.asoo.hr/en/education/adult-education/>, (accessed August 28, 2023)

²² Zakon o obrazovanju odraslih (Adult Education Act), NN 144/2, available at <https://www.zakon.hr/z/384/Zakon-o-obrazovanju-odraslih> (accessed August 15, 2023)

of education are important for the labour market and ensure the professional and personal development of the individual.

Croatia has a century-old tradition of institutional adult education – with an outline established after World War II, which in the mid-1950s acquired all the characteristics of a system and was incorporated at the local and state level. A great number of adult education institutions exist, such as people’s universities, workers’ universities, elementary schools for adults, secondary evening schools and two-year evening colleges. Together with a constant improvement of andragogic²³ workers, this has allowed the Croatian education system to become very well developed.²⁴

The education system faces low participation of adults in education. In the coming period, it will be necessary to develop skills in the workforce that will enable them to cope with rapid technological, social and economic changes to come, which will be the basis for the long-term competitiveness of the Croatian economy. Lifelong participation rate of adult education for Croatia was 3.5% in 2019, while the EU average was 10.8% in the same year²⁵. In order to increase the participation of individuals in adult education, a Strategic Framework for the Promotion of Lifelong Learning in the Republic of Croatia 2017–2021 was prepared. The European Social Fund called for the education of unemployed or marginalised persons, and Youth Guarantee programmes were also used with the same aim. After 2020, the priorities were mostly strengthening the professionalization process in adult education and developing a quality system in adult education. Croatia has been preparing to participate in PIAAC²⁶ - the OECD's Program for the International Assessment of Adult Competencies, which is the largest and most innovative large-scale assessment in the field of adult literacy. Its aim is to provide a comprehensive picture of key skills among the working-age population and to investigate how these skills are used at work and how they change regarding the level of education, training and learning experience of adults, and how the command of skills is related to educational, economic and social outcomes²⁷.

²³ Learning strategies focused on adults

²⁴ European Association for the Education of Adults, Country Report on Adult Education in Croatia, Helsinki, 2011, p. 11

²⁵ Government of the Republic of Croatia, *Nacionalni plan oporavka i otpornosti 2021.-2026.*, Zagreb, 2021, p. 925

²⁶ The Programme for the International Assessment of Adult Competencies

²⁷ Agency for Vocational Education and Training, Adult Education, *op.cit.*

2.2. Labour Market Analysis in Croatia

Based on The Regulation on Monitoring, Analysis and Forecasting of the Labour Market Needs for Particular Occupations - introduced after the financial crisis in 2010, the CES became responsible for annual analysis and forecasting of labour market needs and development of recommendations for future enrolment policy. The main users of these forecasts were policy makers, education providers and the CES itself. The survey results are used in targeting public active labour market policy programmes and are one of the inputs into the CES's yearly enrolment policy recommendations. The purpose is to identify which adjustments can be made in order to better match skills supply to demand ratio. The survey is conducted in the first quarter of every year and encompasses a relatively high number of employers.²⁸

If we analyse data provided by the CES itself²⁹, in 2020, this survey was conducted in a slightly different way than in the previous years, instead of doing it by telephone or post, it was done completely electronically and therefore it included only 5,344 employers (in the previous year, the number was 9,245). Total of 71.85% of employers were looking exclusively for domestic workers. When comparing the numbers with the previous year, there were about 28-29% fewer vacancies registered and advertised at CES. Observing the annual change in the reported number of missing domestic workers, according to the areas of activity, the biggest decrease (over 50%) was in public administration, other service activities, accommodation and food preparation and service. In the processing industry and education, the reported number of missing domestic workers didn't decrease, while only health and social welfare increased (19%), which can be interpreted as the result of the pressure on the health system, but we should not forget the growing problem of the lack of workers in healthcare even before the pandemic started (for comparison, the number of missing workers in health care and social welfare activities was 40% higher in 2019 compared to 2016).

The total estimate of the number of missing domestic workers in 2020 was around 137,000, where close to 25% of the shortage was filled by hiring foreign workers, resulting with around 34,000 of foreigners employed to fill the shortage of domestic workers. The largest number of domestic workers were missing in trades and individual production (about 54,500), service and trade occupations (about 32,200) and in simple occupations (14,200), while in

²⁸ Cedefop, Skills anticipation in Croatia, Skills intelligence: data insights, <https://www.cedefop.europa.eu/en/data-insights/skills-anticipation-croatia> (accessed August 28, 2023)

²⁹ Provided every year in June for the previous year, available on <https://www.hzz.hr/statistika/> (accessed August 28, 2023)

occupations with high qualifications, such as scientists, engineers and experts, the domestic labour market was missing around 11,000 workers.

During 2022, employers reported to CES a total of 256,458 job vacancies, which compared to 2021 results meant 21,239 more workers in demand (9% increase). The biggest demand came from the area of processing industry (36,612 or 14.3%), education (32,861 or 12.8%), wholesale and retail trade (31,011 or 12.1%), accommodation, food preparation and service (30,966 or 12.1%) and health care and social welfare (29,178 or 11.4%). At the same time, five areas of activity recorded a lower number of reported needs for workers compared to 2021, namely: construction (by 12.7%), agriculture, forestry, and fishery (by 12.4%), financial activities and insurance activities (for 11.3%) and accommodation activities, food preparation and serving (by 2.3%).

During 2022, employers were mostly looking for workers from the following occupations: service and trade occupations (58,437 or 22.8%), scientists, engineers and specialists (54,597 or 21.3%), simple professions (52,484 or 20.5%) and professions in crafts and individual production (40,323 or 15.7%). Comparing it to 2021, it has increased the most demand for workers within the categories of administrative officers (by 21.7%) and service and trade occupations (by 20.2%), while the demand within trade occupations decreased and individual production (by 3.3%) and farmers, foresters, fishermen and hunters (by 6.3%).

If we analyse employment data for 2022, while taking into account the level of education of those employed, we can come to a conclusion that the biggest share belonged to those with secondary level of education - including those with completed four-year vocational high school or gymnasium (32.3%) and those with a three-year vocational secondary school and qualified workers (30%). The next group are persons with a higher education level, who have completed college or academy (15.1%) or a first degree of college, professional studies and baccalaureate (9.5%). This is followed by persons with a lower educational level - with completed elementary school (11.4%) and those who haven't finished elementary education (1.7%). In comparison to the previous year, the number of recorded employment of persons has decreased the most with completed three-year (for 15.6%) and four-year high school (for 14.1%), and the smallest decrease in the number of new employees was achieved in the groups of persons with a university degree and academy and those with no school and incomplete elementary school (8.6% each).³⁰

From the aspect of gender, looking at the same survey data provided by the CES, observing the total number of registered new employees in 2022, we can note that there were 73,935 women (60.6%) and 48,091 men (39.4%), with the

³⁰ Godišnjak 2021, Hrvatski zavod za zapošljavanje, Zagreb, 2022, p. 21

number of women decreasing by 10.1% and men by 18.4% in comparison with the 2021 data. Most of the newly employed – 104,191 of them (85.4%) had some previous work experience, and 17,835 people (14.6%) were employed for the first time in 2022, having no previous experience. Compared to 2021 the employment of persons with work experience decreased by 13.4% and persons without work experience by 14.8%.

Young people under the age of 29 made up a total of 39.3% of the employments throughout the year 2022. There were also other activities carried out for them, through counselling, information and workshops, as they are easily activated on the labour market, with total number of 36,389 young people entering positive activity (e.g. employment or education) within four months from registering as unemployed.³¹

It is interesting to note that, according to 2021 population census conducted by the Croatian Bureau of Statistics, a continuous growth in number of university graduates was recorded – for example, in 1961 the share of the highly educated population in the total population was only 1.8%, while in 2021 it was 24.1%. In almost all age groups these numbers were dominated by women, except for the age groups over 60, in which there was a higher ratio of men than women. In 2021, the share of those with only elementary education was 20.4% and there was more than half, namely 55.5% of those having their secondary education completed.³²

An imbalance on the labour market such as this has mostly been attempted to be mended with the use of the active labour market policies, predominantly through adult education and training, as they tend to change the structure more quickly than what it would take for the secondary and tertiary education systems to change their enrolment quotas and programme organisation, although this should be the main goal when rethinking the county's education strategy long-term, seeing as the workforce is the one that should adapt to the demands of the market.

2.3. Active Labour Market Policies in Croatia

Active labour market policies were initially designed to stimulate the supply of labour and act as shock absorbers for possible wage growth and inflation, while they later mainly became a mean in the fight against unemployment and were aimed at increasing the employability of certain harder-to-employ

³¹ Godišnjak 2021, *op.cit.*, p. 29

³² Croatian Bureau of Statistics, Kontinuiran rast udjela visokoobrazovanog stanovništva, <https://dzs.gov.hr/vijesti/kontinuiran-rast-udjela-visokoobrazovanog-stanovnistva/1594> (accessed on March 5, 2024)

categories of unemployed persons. They have been applied in developed countries since the great economic crisis of the 1930s and the governments of the countries across Western Europe, after the increased growth in the number of unemployed persons in the 1980s, began introducing special employment programmes, after which in OECD countries mainly encouraged the implementation of active policies to the detriment of passive ones, e.g. cash benefits for the unemployed.

The OECD Database on Labour Market Programmes and the Eurostat Labour Market Policy database define active labour market policies as a differentiation between four types of measures:

1. Labour market training, which can be described as institutional training, on-the-job training, and work experience, with its main objective being upgrading the qualifications, productivity, and employability of the beneficiaries.
2. Private sector incentive programmes, such as various wage subsidies and self-employment grants, which aim at creating incentives to alter the behaviour of both employers and workers.
3. Direct employment programmes in the public sector, comprising the production and provision of public work or other activities that produce public goods and services.
4. Job search assistance, applied through job search courses, clubs, vocational guidance, counselling, monitoring, and sanctions, aimed towards increasing the efficiency of the job matching process.

When classifying labour market programmes this way, it becomes evident that these programmes cannot create new jobs, at least in the short term and not on their own but can offer assistance when combined with other public policies (such as macro-economic policy, industrial policy, and education policy) in boosting job creation in the medium- and long-term period.³³

In Croatia, active labour market policies were implemented since before the country regaining its sovereignty from Yugoslavia in 1991.³⁴ At first, they were educational measures for unemployed people and those with jobs at risk, and later they were expanded to groups in need, such as young people without work experience, war veterans, war victims and members of other harder employable groups.³⁵ Today, the implementation of active labour market policies in Croatia is based on the Labour Market Act, State Aid Act, and the

³³ T. Bredgaard, *Evaluating What Works for Whom in Active Labour Market Policies*, *European Journal of Social Security*, vol. 17, no. 4, December 2015, pp. 436-452, p. 438

³⁴ Z. Babić, *Uloga aktivne politike na tržištu rada u Hrvatskoj*, *Financijska teorija i praksa* 27 (4) str. 547.-566., Zagreb, 2003., p. 558

³⁵ T. Matković, *Politika zapošljavanja i nezaposlenost*, *Socijalna politika Hrvatske*, 2. izdanje, ed. Puljiz V., Pravni fakultet Sveučilišta u Zagrebu, Zagreb, 2019, p. 188

Government Program of the Republic of Croatia for the period 2020-2024. These policies and measures are aimed at encouraging employment, self-employment, gaining first work experience, activation of the difficult to employ groups, preservation of jobs and remaining in employment, all in harmony with the general goal of increasing the national employment rate.

As of 2022, there was a total of nine measures in use, counting as following:

1. Employment subsidies
2. Internship grants
3. Public service internship grants
4. Training grants
5. Self-employment subsidies
6. Education and training measures
7. Public work
8. Subsidies for preserving jobs
9. Permanent seasonal work

These measures are aimed at specific target groups of unemployed persons and employed persons who are under a threat of losing their jobs, namely: persons who were not employed with a regular salary during the previous 6 months; without completed secondary education; between 15 and 24 years of age; over 50 year olds; people with disabilities; distinct groups of unemployed persons, such as members of the Roma national minority; employers in difficulties with the aim of preserving jobs; returnees from the diaspora, etc.

During 2022, the implementation of the measures was within the jurisdiction of CES, covering a total of 56,546 users, which was 16.9% more than the number of participants in 2021, when there were 48,371 of them. Of the total number of beneficiaries of the measures, 25,064 were active users from the previous year, and 31,482 users were newly included during 2022³⁶. Of course, we have to take into account that the majority of these measures in 2021 were aimed at preserving jobs and dealing with the aftermath of the pandemic, when in 2022 this number has decreased significantly, leaving space for those measures that have been temporarily suspended, waiting for their use to be resumed after the end of pandemic was declared.

3. Education for The Acquisition of Competencies Necessary for Work Through Vouchers – An Active Labour Market Policy

The before mentioned imbalance between required and available skills could lead to an increase in structural long-term unemployment and create labour force shortage at the same time. Retraining and upgrading is a critical challenge

³⁶ Godišnjak 2021, *op.cit.*, pp. 35-36

that needs to be addressed in order to align the workers' skills with the demands of the labour market, and provide the employers with quality workforce, strengthening the employability and adaptability of the workforce, encouraging the activation of inactive persons, retention of existing employment and worker mobility - by acquiring new or improving existing competencies³⁷.

3.1. NextGenerationEU and the Recovery and Resilience Facility

NextGenerationEU (NGEU) is an EU economic recovery package which aims to support the EU Member States in their recovery from the effects of the Covid-19 pandemic. Adopted on December 14, 2020, the instrument is worth €750 billion and should run in the time period from 2021 to 2026, tying it to the regular 2021–2027 budget of the EU's Multiannual Financial Framework³⁸. This means that, in order to provide the EU with the necessary resources to address the challenges posed by pandemic, the European Commission is authorised to borrow funds on behalf of the EU on the capital markets up to the amount of €750 billion. The Member States ratified the decision by the end of May 2021, thereby authorizing the Commission to borrow the money on their behalf. The EU will use these funds for the purpose of addressing the consequences of the crisis, via the NGEU recovery programme. While the loans will be repaid by the beneficiary Member States, the European Council agreed that the repayment of the EU debt incurred to finance grants will be covered by gross national income-based contributions by Member States and EU's own resources³⁹.

NGEU is to be channelled through seven programmes in the form of loans (€360 billion) and grants (€390 billion). The Recovery and Resilience Facility (RRF) is a temporary instrument that is the centrepiece of NGEU - the EU's plan to emerge stronger and more resilient from the current crisis. Through the Facility, the Commission raises funds by borrowing on the capital markets, which are then available to its Member States, to implement ambitious reforms and investments that:

³⁷ Government of the Republic of Croatia, *Nacionalni plan oporavka i otpornosti 2021.-2026.*, *op.cit.* 925

³⁸ European Parliament, Next Generation EU (NGEU) delivery – Sectoral focus, The digital dimension of the National Recovery and Resilience Plans, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733606/EPRS_BRI\(2022\)733606_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/733606/EPRS_BRI(2022)733606_EN.pdf) (accessed September 12, 2023)

³⁹ K. Bankowski *et al.*, *The macroeconomic impact of the Next Generation EU instrument on the euro area*. *European Central Bank: Occasional Paper Series* 255, 2021, 1 – 23, p. 5

- make their economies and societies more sustainable, resilient, and prepared for the green and digital transitions, in line with the EU's priorities and
- address the challenges identified in country-specific recommendations under the European Semester framework of economic and social policy coordination.⁴⁰

The RRF is based on Article 175 (third paragraph) of the Treaty on the Functioning of the European Union (TFEU), which states that, if specific actions prove necessary outside the Funds and without prejudice to the measures decided upon within the framework of the other Union policies, such actions may be adopted by the European Parliament and the Council acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of Regions. In line with this article, the Recovery and Resilience Facility is aimed to contribute to improving cohesion, through measures that allow the Member States concerned to recover faster and in a more sustainable manner from the Covid-19 crisis, become more resilient along the way.

The EU recovery plan requires Member States to use at least 20% of the RRF for the digital transition, as the digitization and digital technologies have already transformed many jobs and will affect the dissonance between supply and demand in the labour market, with the Covid-19 pandemic only accelerating the need for adaptation to new technologies and their application in the business processes. With digital transformation being one of the main priorities of the EU, the European Parliament will help shape policies that will strengthen European capacities in the field of new digital technologies, open up new opportunities for businesses and consumers, support the EU's green transition and achieve climate neutrality by 2050, support citizens' digital skills and worker training, and help in digitization of public services, while ensuring respect for fundamental rights and values.⁴¹

3. 2. The Croatian National Recovery Plan

Within the RRF, grants in the estimated amount of €6.3 billion will be available to Croatia, including loans in the estimated amount of €3.6 billion, which puts it at the top of the EU Member States in terms of the ratio of available funds and GDP. This unprecedented amount is a unique opportunity that should contribute to the modernization and the growth of the economy and enable

⁴⁰ European Commission, The Recovery and Resilience Facility, https://commission.europa.eu/business-economy-euro/economic-recovery/recovery-and-resilience-facility_en (accessed 25 August 25, 2023)

⁴¹ European Parliament, Next Generation EU (NGEU) delivery – Sectoral focus, *op.cit.*

the social and balanced development of Croatia. A prerequisite for the use of funds from the RRF is the creation of a National Recovery and Resilience Plan for the time period of 2021-2026 which includes reforms and investments that should be implemented no later than end of August 2026. Considering the needs of the Croatian society and economy, along with planned reform efforts and investment planning, the priority of the government is to fully utilize the available funds to ensure a quick recovery of the national economy while enabling investments in all the significant areas. The Croatian Recovery and Resilience Plan is based on strategic documents, programmes, recommendations, and obligations and as such forms a clear and coherent framework for the implementation of reforms, as well as developmental, social, environmental and all other goals of the government in the current decade. It is aligned with the national strategic development plan documents, as well as with European priorities focused on digital and green transition, which are based on the modernization of the economy and society based on greater investment in innovations and new technologies. These priorities were translated into the framework of the RRF, which determines that at least 20% of the plan's funds should be allocated to digital transformation, and 37% funds to the green transition and the fight against climate change.⁴²

Croatia's goal is to become a significant factor in the green economy and the introduction of cleaner, cheaper and healthier forms of transport by promoting a safe and sustainable transportation policy. Investments will be made in digital infrastructure and the introduction of digital solutions will be encouraged in the interest of citizens and the Croatian economy, which should contribute to building the digital future of Europe.⁴³

In accordance with the RRF, as well as with specific Croatian development needs, The Croatian Recovery and Resilience Plan consists of one initiative (Renovation of buildings, which will be awarded 12% of the allocated funds) and five separate components:

- Economy (54 % of the total funds)
- Public administration, judiciary, and state property (10%)
- Education, science, and research (15%)
- Labour market and social protection (4%)
- Healthcare (5%).⁴⁴

⁴² Ministry of Justice and Public Administration, National Recovery and Resilience Plan 2021-2026, <https://mpu.gov.hr/national-recovery-and-resilience-plan-2021-2026/25470> (accessed August 27, 2023)

⁴³ Zelena i digitalna tranzicija, Nacionalna razvojna strategija, <https://hrvatska2030.hr/rs3/>, (accessed 15 September 15, 2023)

⁴⁴ Government of the Republic of Croatia, Nacionalni plan oporavka i otpornosti 2021.-2026., *op.cit.*, p. 6

The Recovery and Resilience Plan addresses the Council recommendation to reform education through different measures that increase participation in early childhood education and care and the number of mandatory instruction hours in elementary schools, update school curricula, promote digital skills and modernise higher education. Targeted reforms and investments should improve processes at the CES and help increase participation in the labour market by adopting active labour market policies, establishing vouchers for training and upskilling programmes, and amending the existing labour law. Challenges concerning the Croatian social welfare system are also tackled through measures that would improve the coverage and targeting of, and ensure the adequacy of, social benefits and enable the development of new social services.⁴⁵

The component this paper concerns itself with is the fourth one – labour market and social protection. Its main goal is trying to keep workers in employment, creating adequate conditions for the creation of new jobs and reducing the unemployment rate, as well as improving the social welfare system by reducing the risk of poverty and social exclusion for especially vulnerable groups by implementing employment measures and encouraging lifelong learning in order to adapt to the needs of the labour market.

Within the framework of the National Recovery and Resilience Plan, a system of Education for the acquisition of competencies necessary for work through vouchers was developed, one that should ensure the preconditions and procedures for encouraging lifelong learning and acquiring new skills, with an emphasis on digital and green skills. The acquisition of new skills should enable an increase in employability and provide a better matching of supply and demand on the labour market. It is a CES reform measure of the component "Labor market and social protection" in the National Recovery and Resilience Plan for the period 2021-2026. It is in line with the European Agenda for Skills, the Pact for Skills and supports the European "Reskill and upskill" initiative, as well as the Council's Recommendation on forms of training: new opportunities for adults (Upskilling Pathways). The establishment of the education for work through vouchers was developed in cooperation with the national Ministry of Education and Culture, and is part of the new adult education reform, which also established a new quality evaluation system. The measure is planned to include up to 30,000 people, of which at least 12,000

⁴⁵ Council of the European Union, Council implementing decision on the approval of the assessment of the recovery and resilience plan for Croatia, <https://data.consilium.europa.eu/doc/document/ST-10687-2021-INIT/en/pdf> (accessed March 5, 2024)

(40%) are long-term unemployed, inactive, or young people with NEET⁴⁶ status.⁴⁷

Investing in upskilling and reskilling measures is crucial to support a fair and resilient recovery from the socio-economic impacts of the Covid-19 pandemic, and to ensure everyone can benefit from the green and digital transitions. Moreover, upskilling and reskilling can play a key role in promoting lifelong learning, addressing skill mismatches and shortages, increasing the productivity of the European labour force, and tackling unemployment. Its importance is pointed out in several key EU policy instruments (e.g., the European Skills Agenda 1 and the European Pillar of Social Rights, and its Action Plan 2), as well as in a number of EU level funding programmes - the European Social Fund Plus (ESF+), the Recovery and Resilience Facility (RRF), the Technical Support Instrument (TSI), Erasmus+ 2021- 2027, and the Digital Europe Programme.⁴⁸

The decision on the bodies in the National Recovery and Resilience Plan should define the competent authorities and responsibilities for carrying out the tasks in the implementation of the plan, including a central coordinating body under the Ministry of Finance to ensure the implementation and monitoring of the RRF measures, including reforms, while the Implementation Committee will ensure consistency and coherence in the use of EU funds. The Coordinating body for the National Recovery and Resilience Plan shall be established and fully functional, within the Ministry of finance.⁴⁹

3.3. About the measure

The Education for the acquisition of competencies necessary for work through vouchers has been introduced within the before mentioned Adult Education Act and its follow-up, the 2021 revision, where Article 17 defines how formal and informal adult education programmes can be financed through vouchers awarded by the CES as the competent authority in accordance with a special

⁴⁶ Persons no longer in the education system, not working or being trained for work

⁴⁷ Government of the Republic of Croatia, Nacionalni plan oporavka i otpornosti 2021.-2026., *op.cit.*, p. 927

⁴⁸ European Commission, Key funding opportunities for upskilling and reskilling at EU level, <https://pact-for-skills.ec.europa.eu/system/files/2022-09/Key%20funding%20opportunities%20for%20upskilling%20and%20reskilling%20at%20EU%20level.pdf> (accessed August 28, 2023)

⁴⁹ European Commission, Proposal for a Council implementing decision on amending Implementing Decision (EU) (ST 10687/21 INIT; ST 10687/21 ADD 1) of 28 July 2021 on the approval of the assessment of the recovery and resilience plan for Croatia, Brussels, 2022, p. 115

regulation administering compulsory education for access to the labour market for a specific profession.

The target groups are unemployed and employed persons (who can be referred to as jobseekers) that are between the ages of 15 and 65 and have at least completed their elementary education. Being registered in the unemployed persons' registry of the CES is mandatory for all voucher beneficiaries, as defined by the Labour Market Act, which excludes students, pension beneficiaries and public service employees, but what makes it different from other available measures is that an official 'unemployment' status of the person is not necessary. This means that, as long as they are in CES' registry under a 'job seeker' status, a person can apply and become a voucher beneficiary. This includes people in employment, who have often been excluded from these types of measures, as they were usually meant only for the officially unemployed persons, i.e. those not currently in employment.

Education programmes for the acquisition of these competencies can last up to 10 months. The financial amount of the voucher is determined depending on the educational sector or sub-sector which the programme belongs to, the total workload for obtaining the qualification and the hourly schedule of the programme, taking into account the number of hours in the guided learning and teaching process, the number of hours based on work and the number of hours based on independent activities. In the event that the cost of the selected education programme is greater than the amount allocated by the voucher, the difference up to the full amount of the cost of education is covered by the beneficiary. If they are in employment, the employer can back the difference up to the full amount of the education costs. The criteria for allocation of the vouchers are based on the previous education of the applicant and their current workplace and previous work experience, as well as the additional professional interests and their further career development plans (in accordance with the assessment of their professional guidance counsellor at the CES).

The request is submitted through an online platform and the CES is obliged to evaluate the request within 10 days from receiving the application. The beneficiary contacts the education service provider (school or institution) independently and submits an offer for the chosen education programme to CES, submitting the request for the voucher at least 16 days before the start date of the education programme. Their obligations are to regularly attend classes, according to the selected education programme in accordance with the schedule and duration with the acceptable number of absences from classes being determined by the curriculum. The beneficiary is also obliged to upload a certificate of completed education within 15 days from the day of taking the final exam.

A request for participation as a service provider can only be submitted by an educational institution that has developed an education programme that are on the list of competencies required for work, determined by the ministry responsible for work. The provider of education services must have a license to work, i.e. to carry out education in accordance with the regulations governing education. Within the voucher system, education programmes of education providers can appear only if they are aligned with the Croatian Qualifications Framework standard. This guarantees education beneficiaries a quality standard for all programmes, and education providers a transparent arrangement - it is enough to harmonize the educational programme with the national standard and it can be registered in the catalogue of skills and programmes within the voucher system.

Social partners and persons with interest who can propose for the current list of competencies to be amended and supplemented are as following:

1. CES
2. Croatian Chamber of Commerce
3. Croatian Chamber of Crafts
4. Employers' associations or higher-level employers' associations
5. Unions or associations of higher-level unions
6. Providers of adult education services
7. Committee for evaluation of requests for registration of occupational standards or sets of competences in the Croatian Qualifications Framework network
8. Bodies of state administration whose competence is the drafting and/or implementation of regulations concerning mandatory education for access to the labour market for a specific profession
9. Other persons of interest in accordance with the Croatian Qualification Framework.⁵⁰

The Ministry of Labour, Pension System, Family and Social policy, when approving a certain programme, will check how the learning outcomes lead to competencies set out by professional standards.⁵¹ Additionally, by mapping out the skills, the focus will be on the priority skills on the labour market or adult education programmes whose learning outcomes lead to the acquisition of priority skills, with an emphasis on digital and green skills. In addition to the existing Croatian Qualifications Framework Registry, a catalogue of skills, i.e.

⁵⁰ Pravilnik o kriterijima za odabir kompetencija potrebnih za rad, za odabir pružatelja usluga i za dodjelu vaučera polaznicima formalnog ili neformalnog obrazovanja odraslih, NN 38/2022

⁵¹ Ministry of Labour, *Smjernice za izradu programa neformalnog/formalnog obrazovanja odraslih za stjecanje kompetencija potrebnih za rad*, Pension System, Family and Social policy, Zagreb, 2023, p. 30

tools for mapping, will be created immediately existing and necessary skills in the labour market, which will be an integral part of the measure itself.⁵²

Every 6 months, CES conducts an audit of the list of programmes and service providers available to beneficiaries for the allocation of vouchers, with only those service providers being registered whose education programme acquires skills for work that are contained in the list maintained by the ministry responsible for work and which comply with the conditions for financing through the European structural and investment funds and the RRF. For unemployed persons, CES refunds the costs such as financial assistance for days spent on education, compensation for transportation, medical examination (if it is defined as a condition for enrolment) and the insurance if the beneficiary is not otherwise insured. For other job seekers it covers the insurance if they are not otherwise insured.

CES will pay 50% of the cost of the approved voucher to the education service provider no later than 10 days from the day the programme started, and the remaining 50% within 10 days from the day the education service provider informed CES about the completion of the programme. Financial aid, transportation and insurance costs are paid to the beneficiary at the beginning of each month for the previous month, in proportion to the number of days of attendance in the education programme. After completing the educational program, an evaluation is carried out, which is also regulated by the new proposal of the Adult Education Act. It is precisely the results of the evaluation and quality of educational programs that will be used as an additional element in further selection of eligible programs and institutions and considered when drafting future ones.

To better align with the needs of the labour market and determine the effectiveness of the measures, an external evaluation will be implemented, which will be the basis for further improvement of the voucher system. The implementation of the voucher system is planned for a three-year period, from 2022 to 2026. The methodology for calculating the costs is based on the calculation of the unit cost of the intervention on the basis of the actually spent funds of measures of the active employment policy for education, which is the CES carried out in the previous period. The unit cost for individual education amounts to an average of €1,327.23 per person, and therefore the measure has the capability to cover up to 30,000 people, of which a minimum 12,000 long-term unemployed, inactive, or young people in NEET status⁵³. From 1 January

⁵² Government of the Republic of Croatia, *Nacionalni plan oporavka i otpornosti 2021.-2026.*, *op.cit.*, 926

⁵³ Government of the Republic of Croatia, *Nacionalni plan oporavka i otpornosti 2021.-2026.*, *op.cit.*, p. 921

to 31 August 2023 there was a total number of 5,269 people included in this measure.⁵⁴ Successful implementation of the goals related to the inclusion of members of vulnerable groups in education through the voucher system, requires a targeted and coordinated action towards all interested parties – the unemployed persons, employers, and educational institutions, as all of their potential suggestions and proposals need to be taken into account when rethinking the future of this measure.

3.4. Analysis

Given that the Education for the acquisition of competencies necessary for work through vouchers has been in use for only little over a year, we cannot yet declare it completely successful or unsuccessful, as its real effects will be visible only in the coming years, when we see how employable and competitive on the labour market the people who have finished the programme, namely former beneficiaries, ended up being, attaining new sets of knowledge and skills and what kind of impact, if any, it had on the national unemployment rates. This analysis is thus from a current perspective, of vouchers as a measure in its early stage.

If going only by the demand, taking it into account as the sole indicator of achievement, the measure could already be deemed successful, since it has generated great public interest since its conception, resulting in media reports that were followed-up by inquiries of the interested parties. Not only from the side of the potential beneficiaries, but from educational institutions and future employers as well. From the very beginning of the introduction of the measure, the Croatian Chamber of Commerce actively participated in the topic and through cooperation with the Ministry of Labour, Pension System, Family and Social Policy, conducted a research among member companies, looking for reported needs of additional skills and knowledge of existing and future employees on the labour market, as a basis and preparation for the introduction of the measure,⁵⁵ that was taken into account when drafting the catalogue of available programmes. The goal was to include as many institutions providing adult education as possible, thereby offering diverse programmes for the beneficiaries, as well as to point out to employers the importance of improving the specific knowledge and skills of their workforce,

⁵⁴ Mjesečni statistički bilten XXXVI/2023, Hrvatski zavod za zapošljavanje, https://www.hzz.hr/app/uploads/2022/09/HZZ-bilten-01_2023-2.pdf (accessed September 22, 2023)

⁵⁵ Croatian Chamber of Commerce, Sustav vaučera kao odgovor na neusklađenost vještina radne snage s potrebama gospodarstva, <https://www.hgk.hr/sustav-vaucera-kaodgovor-na-neuskladenost-vjestina-radne-snage-s-potrebama-gospodarstva> (accessed March 4, 2024)

giving the employees added value on the labour market as well as a comparative advantage to the company itself, which would provide employees and employers with additional business opportunities and competitiveness on the labour market.

It was introduced in the moment when the necessity for most of the measures to support workplaces during Covid-19 pandemic ceased, and the need to adapt the workforce to the needs of the labour market arose, going from having measures that mostly focused on preserving existing jobs, to financing those that were supposed to create new, high-quality jobs, but despite of this, it was predominantly meant as a mean for the future, an investment with intention to enhance the workforce, namely its competency and skills.

At a time when a complete and structural reform of the education system would be too complicated to implement in such a short time, and we would have to wait longer for its results, the education of the existing unemployed and employed persons (or as it was earlier mentioned, the “human capital”) is a good investment, especially due to the fact that the funds are provided by the EU and the country doesn’t have to carry out this financially challenging task on its own, without the community support. In the previous financial period, from 2014 to 2020, Croatia has insufficiently used the available funds, and this could be a good opportunity to finally benefit from everything that was offered to it when joining the EU back in 2013.

The ever-growing rise and development of digitalization is also present in the fact that the application and submission of beneficiaries’ applications itself is digitalized, relying on CES’ platform, and individuals are not limited by their place of residence and can also attend online programmes, at a place and time that suits them. Of course, it is debatable if virtual classes and attendance can replace the education in classroom and face to face interaction with the lecturers, but since the pandemic, a lot of changes have been made, heavily encouraging online education and communication, making it a permanent fixture for many. For some professions though, it is beyond necessary to participate in education in person, because it requires practice and use of particular tools or machinery, so those who live in the parts of the country where these programmes are not offered will be unable to participate in the education.

Unemployed persons are not the only ones included in the education, as those who are employed can also participate as voucher beneficiaries if they express an interest in a certain programme. The fact that someone is employed often prevents a person from seeking out further education and training, considering that the professional training they receive from their employer is sufficient for the position and the profession in which they are employed. In the education through the vouchers system, it is possible to train for an activity in which a

person has had no experience so far, and it is not necessary to work in the sector for which they are being trained, and thus it is possible to expand the knowledge and skills one possesses. The problem here could arise from the fact that someone who is currently in employment doesn't have to go through the structured professional counselling with the CES expert advisors, as an officially unemployed individual regularly would, so they are free to choose their desired area of education regardless of the labour market necessities and only in regard with their own personal desires and interests. Still, it should be looked upon as a welcome improvement of the existing active labour market policies concerning education, because it expands the circle of participants. People in employment are often discouraged to look for additional education, often due to the widespread misconception that having a secure job means one shouldn't continue to strive to further educate themselves and look for a professional challenge, and sometimes even out of fear that their employer would think they might be leaving their position or the company if they express interest in adult education outside of their chosen profession.

The Croatian society still predominantly believes that a person's education ends with the secondary or tertiary education, disregarding the important role adult education can play in shaping the country's educational structure. With activating the population from the ages of 25 to 65, we significantly widen the bracket of persons included in some form of education or training. Of course, after the end of the education, it is necessary to put in extra effort to maintain the acquired competences, and in that case, it would be preferred to continue a career in the direction for which the individual was educated. Here, in the case of vouchers, a problem could surface if someone completed their education but then later did nothing to offer the acquired knowledge and skills on the labour market, the measure therefore ending with them gaining a certificate or a diploma.

After the completion of the education, it should be looked into the ways in which the CES could be additionally involved into providing support through some other available subsidies and grants from their catalogue of measures, using them as a mean to further upgrade the skills and knowledge existing voucher beneficiaries have acquired. Here, we could eventually connect this measure with those such as self-employment subsidies, where a person wouldn't have to wait to be employed by a company or an individual, as they could instead start the process of self-employment by themselves, using newly obtained skills in the process. Also, potential employees could use employment subsidies for certain workers who have completed the programme, which would often be impossible, because they usually need to possess an official diploma or a certificate to be eligible for such consideration. A person who completed an officially recognized programme, and attains the necessary

certificate, could also be considered for a subsequent subsidy, and thus further continue their professional progress, benefiting both themselves and their employer in the process.

With the voucher system requiring educational institutions to offer various programmes, further developing their catalogues, this could also open the door to regular, unfunded education, popularizing this type of adult education and training among those who might not qualify for the measure itself, but could invest into their future and who might decide to fund their education themselves, as the educational institutions' programmes are public and available to everyone, not only to those who are granted a voucher. Of course, this would demand that heir use their own funding, but investing into one's education should be more popularized and widespread, as publicly funded subsidies and grants are not always available, and they often come under certain stipulations.

The policy is currently funded by the EU and its NextGenerationEU instrument, but eventually Croatia should find a way to continue this good practice on its own and fund some of the active labour market policies without the EU incentive, whether in this or some other, transformed manner. Ideally, it would lead into a long-term ability to offer different measures and programmes, drafted with having specific labour market needs in mind and closely monitoring the supply and demand ratio.

Since, upon the completion of the programme each beneficiary participates in a survey, giving their own assessment of the success or lack of it of the measure itself, the current results are saying that 92% of the beneficiaries are satisfied with the measure as a whole package, giving it a total grade 4.62 out of five. 88% of them are satisfied with the acquired skill, 92% are satisfied with the possibilities of advancement in the workplace or finding employment after completing the programme, 88% are satisfied with the quality of the educational programme, 94% have expressed satisfaction with the quality of the classroom and equipment at the education provider and a 92% of the beneficiaries are satisfied with the quality of lecturers⁵⁶. Of course, the beneficiaries' satisfaction gives us only one-sided perspective and the success of the measure cannot be evaluated solely through it, as we still have to wait and see its effect on their later employability and whether the acquired skill was helpful in that regard.

⁵⁶ Vaučeri za obrazovanje, Zadovoljstvo korisnika vaučerima, <https://vauceri.hzz.hr/vauceri-besplatno-stjecanje-vjestina/> (Accessed September 16, 2023)

4. Conclusion

From early 2020, every country offered some sort of job preservation measures, helping both workers and employers in these difficult times. For EU countries, this wouldn't have been made possible without the Union level intervention, providing them with the funds to implement these measures as a part of the active labour market policy schemes. After the pandemic ended, these measures transformed into trying to help the existing workforce adapt to the ever-changing needs of the labour market. In Croatia, Education for the acquisition of competencies necessary for work through vouchers was introduced, the main goal of which is to provide prerequisites and procedures for encouraging lifelong learning and the attainment of new skills, with a particular emphasis on digital and green skills. The acquirement of new skills should facilitate an increase in employability and provide a better match of supply and demand on the labour market. In the coming period, it will be necessary to develop skills that will enable the workforce to cope with the rapid technological, social, and economic changes that are inevitable, and that will be the basis for the long-term competitiveness of the Croatian economy, regarding the Union and the rest of the world.

Although investment in adult education is praiseworthy, the existing number of adults in Croatia included in it is way below EU average, which is concerning. The problem that the country is faced with is that it seems as if adult education has been set-up as an answer to a problem that cannot exactly be solved overnight.

Adult education should not be the bearer of changes in the labour market, but only viewed as the additional mean of prequalification of the already existing workforce, which helps individuals maintain existing and acquire new knowledge and skills that help them adapt to the requirements of new technologies and readily face severe changes in the labour market. The main focus should be placed on investing into a thorough education system revision and re-evaluation, changing it from its core - from elementary and secondary educational institutions and universities. Croatia still desperately requires a drastic change in the education system as a whole, if it wants to remain competitive with today's trends in the labour market, investing into its workforce from the beginning, instead of having its citizens continuously educated for professions that are not in such a high demand anymore. Although important part of a county's education system, adult education should not be seen as the basis of education in a society, but only as its supplement, which makes the workforce competitive and in line with the trends, offering additional skills and knowledge to those who are willing to learn, giving an added value to their "human capital".

Gender Gap in Science and Academia: A Study on the Professional Careers of Spanish Scientists

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Abstract. The incorporation of women in the world of science has improved over recent decades. However, the gender gap still remains significant. Furthermore, the discrimination women have to face is often subtle and hence is sometimes difficult to identify in an explicit manner. What is clear is that maternity leave, the implicit gender bias, the lack of specific references in certain areas, the distribution of roles, publications and collaboration between equals are, among other questions, clear examples of a problem that persists over time. Through fieldwork consisting of 23 semi-structured interviews of women and men that are members of research groups with projects financed by the European Research Council, we will address their careers and, thanks to their testimony, will try and uncover this discrimination and explore the current gender gap in the field of Spanish science.

Keywords: *Gender, scientific research, leadership, working groups.*

1. Introduction

Despite the androcentrism present in all dominant forms of science¹, the incorporation of women into the world of science and academia has significantly increased in recent decades². However, the gender biases present

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¹ Harding S. (1986) *The science question in feminism*. Ithaca, Cornell University Press.

² European Commission (2021) *She figures, 2021. Gender in research and innovation: statistics and indicator*.

in these fields –as in society as a whole– make the gender gap larger or smaller depending, among other factors, on the country and field of specialisation. Recent reports have concluded that the number of women students and holders of bachelor’s and master’s degrees and PhDs has increased considerably and constantly over the last few years. Specifically in Europe, the number of women with a bachelor’s and master’s degree now exceeds the number of men, with 54% of the total, and women graduates with 59%. And, although at a PhD level, these drops compared with the aforesaid figures, the figure remains at 48% of women students. However, when analysing the figures for women in relation to researchers, they only account for 33%. At the highest academic level, women professors are clearly underrepresented, standing at 26%. Here, the “scissors diagram” and “leaky pipe” effect appears; in other words, there are many women in the lower ranks or echelons; however, as you move towards higher and more prestigious positions, their number drops. We can see this gender gap at a global level, where men account for 72% of the total number of researchers; consequently, the high number of women in education up to the level of PhD does not inevitably translate into a greater presence in research. Despite this, we should point out, as emerges in the UNESCO report³, that this figure has significant variations according to country and region. Accordingly, in Southeast Europe, women account for 49% of researchers, a similar figure to the Caribbean, Central Asia and Latin America, where they stand at 44%. In Arab countries, women researchers account for 37%, and 30% in Sub-Saharan Africa. Although, as mentioned above, women researchers in European Union countries account for 33% of the total, the contradiction emerges with the fact that only one in four researchers in Germany, the Netherlands and France are women. The percentage of women researchers decreases in countries such as South Korea, with 18%, and Japan, with 15%, the lowest of all the members of the Organisation for Economic Co-operation and Development (OECD). The lowest figures in the world can be found in Ethiopia, with 13%, Togo, with 10% and Nepal, with 8%. Finally, the countries with the highest number of women researchers are Bolivia, with 63% out of the total population, and Venezuela, with 56%⁴. Despite the fact that this last figure is good news for the region of Latin America, companies show the highest degree of segregation, where women researchers in the private sector account for less than one third of the total globally⁵.

³ Huyer S. (2018) *Is the Gender Gap Narrowing in Science and Engineering?* UNESCO.

⁴ Huyer S. (2018) *Is the Gender Gap Narrowing in Science and Engineering?* UNESCO.

⁵ OEI, Organización de Estados Iberoamericanos (2018) *Papeles del Observatorio N° 9: Las brechas de género en la producción científica Iberoamericana*. Buenos Aires, Observatorio

Women are underrepresented in many scientific fields and face greater challenges and inequalities than their male colleagues⁶. Gender socialisation is one of the factors that could explain this phenomenon, and, with that, the prejudices, stereotypes and expectations of what is traditionally considered more appropriate for men and for women. This is crucial to understand the choice of fields of study and university degree, where women primarily choose those that are traditionally considered more ‘feminine’, like Humanities and Social Sciences, while men tend to choose the STEM⁷ subjects⁸. Furthermore, this bias against women in scientific and academic fields is fundamental when it comes to understanding these differences⁹.

Similarly, women tend to occupy more subordinate positions¹⁰, compared with the higher positions occupied by men in the STEM sciences in the USA¹¹ and in Europe¹². In addition, women hold fewer positions as journal editors and members of the editorial boards of journals. Accordingly, in the 1980s, only 18% of journal editors of the American Psychological Association were

Iberoamericano de la Ciencia, la Tecnología y la Sociedad de la Organización de Estados Iberoamericanos (OCTS-OEI).

⁶ Fox M.F. (2010) “Women and men faculty in academic science and engineering: Social organizational indicators and implications”, *American Behavioral Scientist*, 53(7), pp. 997-1012. Shaw A.K. & D.E. Stanton (2012): “Leaks in the pipeline: separating demographic inertia from ongoing gender differences in academia”, *Proceedings of the Royal Society of London*, 272, pp.3736–3741. Larivière V., C. Ni, Y. Gingras, B. Cronin & C.R. Sugimoto (2013) “Bibliometrics: global gender disparities in science”, *Nature*, 504, pp.211-213. West J.D., J. Jacquet, M.M. King, S.J. Correll & C.T. Bergstrom (2013): “The role of gender in scholarly authorship”, *PLoS ONE*, 8.

⁷ An acronym for the fields of Science, Technology, Engineering and Math.

⁸ Agudo Y. (2006) “El lado oscuro de la mujer en la investigación científica: ¿es la ciencia una ‘empresa’ masculina?”, *Cuestiones de género: de la igualdad y la diferencia*, 1, pp.15-51.

⁹ Moss-Racusin C.A, J.F. Dovidio, V.L. Brescoll, M.J. Graham & J. Handelsman (2012) “Science faculty’s subtle gender biases favor male students”, *Proceedings of the National Academy of Sciences*, 109, pp. 16474-16479. Knobloch-Westerwick S., C.J. Glynn & M. Hoge (2013) “Science faculty’s subtle gender biases favor male students”, *Science Communication*, 35, pp. 603–625.

¹⁰ Wutte M. (2007) “Closing the gender gap”, *Nature*, 448: NJ101–NJ102. Reuben E., P. Sapienza & L. Zingales (2014): “How stereotypes impair women’s careers in science”, *Proceedings of the National Academy of Sciences of the United States of America*, 111, pp. 4403–4408.

¹¹ National Science Foundation (2012): *Science and Engineering Indicators 2012* (NSB 12-01). Arlington, National Science Foundation.

¹² European Commission, Directorate-General for Research and Innovation (2013) *She Figures 2012. Gender in Research and Innovation: Statistics and Indicators*. Bruselas, Publications Office.

women, a figure which has barely changed over time, given that in 2005, this figure had only increased to 28% for women editors¹³.

The gender wage gap that affects women scientists, academics and researchers is also worthy of mention¹⁴. These women receive fewer subsidies¹⁵ and their salaries tend to increase more slowly than those of their male colleagues¹⁶. They are also allocated fewer resources and less funding¹⁷.

Academic promotion, evaluation and subsequent public or private funding is primarily determined by scientific production and the impact factor (IF). Also considered necessary are collaboration, cooperation and the forging of networks in general¹⁸, where gender gaps once again stand out¹⁹. The numerous research papers drafted in this regard have fundamentally been carried out

¹³ Mayer S.J., & J.M.K. Rathmann (2018) "How does research productivity relate to gender? Analyzing gender differences for multiple publication dimensions", *Scientometrics*, 117(3), pp. 1663-1693.

¹⁴ Trower C.A & Chait, R.P. (2002) "Faculty diversity: Why women and minorities are underrepresented in the professoriate, and fresh ideas to induce needed reform", *Harvard Magazine*, 104, pp. 33-37. Umbach P.D. (2007) "Gender equity in the academic labor market: An analysis of academic disciplines", *Research in Higher Education*, 48, pp. 169-192.

¹⁵ Hosek S., A.G. Cox, B. Ghosh-Dastidar, A. Kofner, N. Ramphal, J. Scott & S.H. Berry (2005) *Gender differences in Major Federal External Grant Programs*. Santa Monica, RAND Corporation. Pohlhaus J.R, H. Jiang, R.M. Wagner, W.T. Schaffer & V.W. Pinn (2011): "Sex differences in application, success, and funding rates for NIH extramural programs", *Academic Medicine*, 86.

¹⁶ Zuckerman H. (1987) "Persistence and change in the careers of men and women scientists and engineers: A Review of Current Research", in L.S Dix, ed., *Women: Their Underrepresentation and Career Differentials in Science and Engineering*. Washington, D.C., National Academy Press, pp. 123-156. Long J.S, P.D. Allison & R. McGinnis (1993) "Rank advancement in academic careers: Sex differences and the effects of productivity", *American Sociological Review*, 58(5), pp. 703-722.

¹⁷ Stack S. (2004) "Gender, children and research productivity", *Research in Higher Education*, 45(8), pp. 891-920. O'Dorchai S., Meulders, D., Crippa, F. & Margherita, A. (2009) *She figures 2009. Statistics and indicators on gender equality in science*. Publications Office of the European Union. Larivière V., E. Vignola-Gagné, C. Villeneuve, P. Gélinas & Y. Gingras (2011) "Sex differences in research funding, productivity and impact: an analysis of Quebec university professors", *Scientometrics*, 87, pp. 483-498.

¹⁸ Wuchty S., B.F. Jones & B. Uzzi (2007) "The increasing dominance of teams in production of knowledge", *Science*, 316, pp. 1036-1039. Leydesdorf L., & C.S. Wagner (2008): "International collaboration in science and the formation of a core group", *Journal of Informetrics*, 2(4), pp. 317-323.

¹⁹ Bozeman B. & E. Corley (2004) "Scientists' collaboration strategies: implications for scientific and technical human capital", *Research Policy*, 33, pp. 599-616. Holman L., D. Stuart-Fox & C.E. Hauser (2018) "The gender gap in science: How long until women are equally represented?", *PLOS Biology*, 16(4).

based on surveys²⁰ and by other quantitative methodological tools; hence, the conclusions and results do not tend to explain the root cause of this problem. According to the data available, women researchers have lower output and publish fewer papers than their male counterparts²¹. Furthermore, they tend to collaborate less at an international level²², at a national level and in their own university departments²³, and even when they do so, their collaboration is less prestigious²⁴. In addition, various studies argue that a certain “gender homophilia” exists when publishing scientific papers; in other words, women publish with women and men with men with a higher frequency than would be expected if this were random in terms of gender²⁵.

As we could appreciate, quantitative data paint the picture superficially as if women did not want to work, are lazy or not as committed to science as men, eliminating systemic bias and exclusion. Beyond the figures, the reasons that explain these gender differences in the degree of collaboration and production can be summed up by: gender prejudices against women and implicit gender bias²⁶ in science and academia²⁷, where we could also include the so-called

²⁰ Abramo G., C.A. D’Angelo & F. Di Costa (2013) “Gender differences in research collaboration”, *Journal of Informetrics*, 7, pp. 811-822.

²¹ Kyvik S., & M. Teigen (1996) “Child care, research collaboration, and gender differences in scientific productivity”, *Science, Technology and Human Values*, 21(1), pp. 54-71. Larivière V., C. Ni, Y. Gingras, B. Cronin & C.R. Sugimoto (2013) “Bibliometrics: global gender disparities in science”, *Nature*, 504, pp.211-213.

²² Lewison G. (2001) “The quantity and quality of female researchers: A bibliometric study of Iceland”, *Scientometrics*, 52, pp. 29-43.

²³ Webster B.M. (2001): “Polish women in science: A bibliometric analysis of Polish science and its publications”, *Research Evaluation*, 10, pp. 185-194.

²⁴ Long J.S. (1990) “The origins of sex differences in science”, *Social Forces*, 68, pp. 1297-1316. Zeng X., J. Duch, M. Sales-Pardo, J. Moreira, F. Radicchi, H.V. Ribeiro, T. Woodruff & L. Amaral (2016) “Differences in Collaboration Patterns across Discipline, Career Stage, and Gender”, *PLOS Biology*, 14(11). Jadidi M., F. Karimi, H. Lietz & C. Wagner (2018) “Gender disparities in science? Dropout, productivity, collaborations and success of male and female computer scientists”, *Advances in Complex Systems*, 21(3-4).

²⁵ McDowell J.M. & J.K. Smith (1992) “The effect of gender-sorting on propensity to co-author: Implications for academic promotion”, *Economic Inquiry*, 30, pp. 68-82. Ghiasi G., V. Larivière & C.R. Sugimoto (2015) “On the compliance of women engineers with a gendered scientific system”, *PloS ONE*, 10. Teele D.L. & T. Kathleen (2017) “Gender in the journals: Publication patterns in political science.”, *PS: Political Science & Politics*, 50, pp. 433-447. Araújo T. & F. Elsa (2017) “The specific shapes of gender imbalance in scientific authorships: a network approach”, *Journal of Informetrics*, 11, pp. 88-102. Holman L., D. Stuart-Fox & C.E. Hauser (2018) “The gender gap in science: How long until women are equally represented?”, *PLOS Biology*, 16(4).

²⁶ See LERU (2018), for more information on “implicit gender bias” concept.

²⁷ Moss-Racusin C.A, J.F. Dovidio, V.L. Brescoll, M.J. Graham & J. Handelsman (2012) “Science faculty’s subtle gender biases favor male students”, *Proceedings of the National*

“Matilda Effect”, which is the lack of recognition for women’s successes and the resulting attribution of their work to their male counterparts as a result of existing social prejudices²⁸. Furthermore, gender socialisation acts subtly on questions that are clearly less visible, such as due to less networking or forming professional relationships of women in scientific communities, men are more able to manage in these milieu²⁹; family and care obligations that are traditionally fulfilled by women³⁰; unequal access to conferences³¹ and travel funds³²; concerns related to sexual harassment³³ and gender differences in confidence and self-esteem³⁴, along with greater self-criticism by women when evaluating their merits and abilities³⁵. These last few questions could be framed within the so-called “Imposter Syndrome”³⁶; in other words, when women

Academy of Sciences, 109, pp. 16474-16479. Sharma J. & Poole, D.N. (2018) Gender bias in publishing. *Lancet*, 392, pp. 1515-1516.

²⁸ Gage M.J. (1883) “Woman as an Inventor”, *The North American Review*, 136 (318), pp. 478-489. Rossiter M.W. (1993): “The Matthew/Matilda Effect in Science”, *Social Studies of Science*, 23, pp. 325-341.

²⁹ Fell C.B., & C.J. König (2016) “Is there a gender difference in scientific collaboration? A scientometric examination of co-authorships among industrial-organizational psychologists”, *Scientometrics*, 108(1), pp. 113-141.

³⁰ Long J.S, P.D. Allison & R. McGinnis (1993) “Rank advancement in academic careers: Sex differences and the effects of productivity”, *American Sociological Review*, 58(5), pp. 703-722. Reskin B.F. (1978): “Scientific productivity, sex, and location in the institution of science”, *American Journal of Sociology*, 83, pp. 1235-1243. Wright A.L., L.A. Schwindt, T.L. Bassford, V.F. Reyna, C.M. Shisslak, P.A.S. Germain & K.L. Reed (2003) “Gender differences in academic advancement: Patterns, causes, and potential solutions in one U.S. college of medicine”, *Social Forces*, 68, pp. 1297-1316. Uhly K.M., L.M. Visser & K.S. Zippel (2017) “Gendered patterns in international research collaborations in academia”, *Studies in Higher Education*, 42(4), pp. 760-782.

³¹ Martin J.L. (2014) “Ten simple rules to achieve conference speaker gender balance”, *PLoS Computational Biology*, 10.

³² Bozeman B. & E. Corley (2004) “Scientists’ collaboration strategies: implications for scientific and technical human capital”, *Research Policy*, 33, pp. 599-616.

³³ Jagsi R., K.A. Griffith, R. Jones, C.R. Perumalswami, P. Ubel & A. Stewart (2016) Sexual Harassment and Discrimination Experiences of Academic Medical Faculty. *JAMA*, 315(19), pp. 2120–2121. Tenbrunsel AE, Rees MR & Diekmann KA (2019) Sexual harassment in academia: ethical climates and bounded ethicality. *Annu Rev Psychol.*, 70, pp. 245-270

³⁴ Bleidorn W., R.C. Arslan, J.J. Denissen, P.J. Rentfrow, J.E. Gebauer, J. Potter & S.D. Gosling (2016): “Age and gender differences in self-esteem-A cross-cultural window”, *Journal of personality and social psychology*, 111(3), pp. 396-410.

³⁵ Lerchenmueller M.J., O. Sorenson & A.B. Jena (2019) Gender differences in how scientists present the importance of their research: observational study. *BMJ (Clinical research ed.)*, 367.

³⁶ Clance P.R. & Imes, S. (1978) “The imposter phenomenon in high achieving women: Dynamics and therapeutic intervention”, *Psychotherapy: Theory, Research & Practice*, 15(3), pp. 241-247. De Montarlot, A. y E. Cadoche (2021): *El síndrome de la impostora. Por qué las mujeres carecen de tanta confianza en sí mismas*. Barcelona, Peninsula.

scientists move into a male-dominated and androcentric space, these female scholars continue to be viewed as invaders and strangers, which casts doubt on their acceptance and capabilities³⁷.

In this paper, we analyse the incorporation of women into the world of science and academia through interviews with both female and male scientists that work at scientific institutions in Spain. The results of the qualitative study show how these dynamics maintain the gender gap in our workplaces.

1.1. Scientific gender gap in Spain

As in other European countries, the situation of women in scientific fields in Spain has improved to an intermediate position; however, a “glass ceiling” still exists in those positions of greatest power and importance³⁸. This hierarchical discrimination is just one example of the difficulties women researchers face, with more direct ones such as the fact that they tend to be excluded from informal communication networks. All of this means that, in general, women are “forced to endure discrimination suffer which is manifested in highly subtle and covert forms”³⁹.

One of the most important reports on this issue was published in 2018 by the Society of Spanish Researchers in the United Kingdom. This was a research paper on gender equality in Spain, with a sample of 1,295 people who worked for different national scientific institutions, which addressed such questions as the perception of gender inequalities. The results show that appreciating the gender gap in the field of science differs significantly between men and women, given that 55% of the women asked considered that men and women are treated equally in their department, compared with 79% of men. The differences are more startling when asked about their opinion as to whether being a woman negatively affects their professional career, with 46% of women responding affirmatively, compared with only 10% of men. However, where

³⁷ Durán M.A. (2000) *Si Aristóteles levantara la cabeza: Quince ensayos sobre las ciencias y las letras*. Madrid, Cátedra. García M.L., F. Arranz, C. Del Val, Y. Agudo, A. Viedma, C. Justo & P. Pardo (2006) *Mujeres y hombres en la ciencia española. Una investigación empírica*. Madrid, Instituto de la Mujer.

³⁸ Lara C. (2007) “La perspectiva de género en los sistemas de evaluación de la producción científica” *Revista de Investigación Educativa*, 25 (1), pp. 133-148. Unidad de Mujeres & Ciencia [UMYC] (2011) *Libro Blanco. Situación de las mujeres en la Ciencia Española*. Madrid, Ministerio de Ciencia e Innovación. Tomàs M. & T. Mentado (2013): *Las temáticas y preocupaciones de las investigadoras élite en ciencias sociales de las universidades catalanas*. Madrid, CSIC.

³⁹ González M. & E. Perez (2002) “Ciencia, Tecnología y Género”, *CTS+I: Revista Iberoamericana de Ciencia, Tecnología, Sociedad e Innovación*, 2.

the gender gap is most clearly evident is when addressing the subject of maternity/paternity leave, whereby maternity leave is a clear example of how inequality operates directly between men and women in the field of research. In this regard, the consequences caused by requesting maternity/paternity leave in a research career are perceived differently: 60% of women consider this has negative effects, compared with 33% of men⁴⁰.

The applications required to formalise a research work position or for promotion in a scientific career have also been analysed recently. This is the case of the six-year transfer, where the results reveal a clear gender gap. The applications presented by men are twice the number of those presented by women and, taking into account that the global success rate of these applications is 42.47%, applications by 73% of men were approved compared with 27% by women⁴¹. The applications presented by the National Agency for the Evaluation of Quality and Accreditation (ANECA) also suffer from a clear gender bias, which can be appreciated in such questions as the fact that only 34.62% of all applications were presented by women, including in fields traditionally dominated by women. Furthermore, clear inequality also exists in senior positions at evaluation institutions, where there are far fewer women holding decision-making positions or sitting on proposal selection committees, along with the low number of professors with six-year tenures at universities⁴².

This underrepresentation of women spans all fields, as evidenced at the scientific awards of Spain granted from the years 2009 to 2014, with only 17.63% of female award-winners, a fact that is accentuated as the economic amount of the awards rises, falling to 7.14% for the three highest awards⁴³.

The gender gap can also be clearly appreciated in collaboration and cooperation between research groups, with only a quarter of the groups being headed up by women, and where women are more concerned with the formation of the team and the group atmosphere⁴⁴. In terms of authoring papers, men continue to be cited more often, that is, in a leadership role, while

⁴⁰ SRUK/CERU-Society of Spanish Researchers in the United Kingdom (CERU) (2018): *Percepciones que crean barreras. Igualdad de género en la investigación científica*. Fundación COTEC para la Innovación. Madrid, Departamento de Política Científica, Sociedad de Científicos Españoles en Reino Unido - CERU.

⁴¹ López A., M.D. Pereira, S. Dema & C. Díaz (2020) "Informe encuesta AMIT sobre el sexenio de transferencia: resultados preliminares", *Revista Igualdad*, 14.

⁴² López A. & M.D. Pereira (2021) "Transfer of knowledge: is it a gender matter?", *Ciencia, Técnica y Mainstreaming Social*, (5), pp. 16-30.

⁴³ González L. (2015) *Las mujeres en los premios científicos en España 2009-2014*, Madrid, Ministerio de Economía y Competitividad.

⁴⁴ Tomàs M. & T. Mentado (2013): *Las temáticas y preocupaciones de las investigadoras élite en ciencias sociales de las universidades catalanas*. Madrid, CSIC.

women stand out more as the authors of articles (production role) and as coordinators of monographs (organisational role)⁴⁵.

1.2. Methodology

The internal mechanisms that operate in scientific research groups are analysed in this research paper⁴⁶, while also identifying collaboration patterns and strategies that promote innovation and excellence in a broad sense. The transformations are also studied as a result of new technologies in the forms of collaboration adopted, affective networks and communication at a scientific level. The fieldwork consists of 48 in-depth interviews and ethnographic work divided into two phases: the first with 23 semi-structured interviews of members of research groups with projects financed by the European Research Council (ERC), both men and women, with different profiles according to their gender, the job position they hold (consolidated or principal Investigator - IP - pre-doctoral students and master's degree students) and the disciplinary field they work in (Natural Sciences, Engineering, Social Sciences and Humanities). The other three interviews were carried out with a specialist in scientific collaboration (X1), a member of a group with fewer resources (X2) and a researcher that holds an important position at the ERC (X3) (Table 1)⁴⁷. The second phase of the fieldwork consists of 25 semi-structured interviews, where less than half correspond to scientists that are PIs in projects financed by the European Research Council and the rest are researchers and academics related to the field of Social Sciences, holding different job positions, such as professors, teaching assistants, tenured lecturers and pre-doctoral students⁴⁸.

⁴⁵ Segarra-Saavedra J., V. Tur-Viñes & T. Hidalgo-Marí (2020): "Género y perfil en las autorías y colaboraciones de 'Revista Mediterránea de Comunicación' (2010-2019)", *Index.comunicación*, 10(1), pp. 149-172.

⁴⁶ Project reference: 2018-T1/SOC-10409, Attraction of Talent Modality 1 of the Region of Madrid. Project title: "Innovation, decision making and leadership in science: How researchers work together".

⁴⁷ This first phase of the research was run by the researcher Carlos López Carrasco, whom the authors express their gratitude to.

⁴⁸ And this second phase of the research was run by Marta Romero-Delgado.

Table 1: Profile of interviewees in the first phase

Id.	Sex	Discipline	Position
E1	Man	Natural Sciences	Tenured lecturer
E2	Man	Engineering	Professor
E3	Woman	Social Sciences	Professor
E4	Woman	Humanities	Professor
E5	Man	Humanities	Teacher/teaching assistant
E6	Man	Natural Sciences	Professor
E7	Man	Natural Sciences	Teacher/teaching assistant
E8	Woman	Natural Sciences	Professor
E9	Man	Engineering	Tenured lecturer
E10	Man	Natural Sciences	Teacher/teaching assistant
E11	Man	Social Sciences	Teacher/teaching assistant
E12	Man	Humanities	Pre-doctoral
E13	Woman	Natural Sciences	Pre-doctoral
E14	Woman	Natural Sciences	Pre-doctoral
E15	Woman	Natural Sciences	Student
E16	Woman	Natural Sciences	Administrative staff
E17	Man	Humanities	Pre-doctoral
E18	Man	Natural Sciences	Post-doctoral
E19	Woman	Humanities	Post-doctoral
E20	Woman	Natural Sciences	Professor

X1	Man	Social Sciences	Tenured lecturer
X2	Man	Humanities	Tenured lecturer
X3	Woman	Natural Sciences	Professor

Source: Own Elaboration (2023).

Once transcribed, the interviews were analysed with a discursive analysis of collaborative practices, based on a coding of the interview material. We have tied in our perspective to the framework of the organisational discourse analysis, which sees an opportunity in this to draw closer to the “ways of life” of the organisation⁴⁹. In turn, we have used sociolinguistic tools, such as the study of the positions of the tradition of such authors as Harré & van Langenhove⁵⁰, without forgetting to refer to the social structures that dialectically form the discourse. Finally, we have associated the discursive and linguistic level with the socio-material contexts, with reference to the potential of ethnography to observe the practical context where certain ways of speaking are consolidated, even appreciating the actual interview as an interactive situation. Our methodological strategy, which is infrequently used in studies on scientific collaboration, is taking on a greater profile in the tradition of studies on organisations⁵¹.

This paper will specifically analyse the gender gap in the world of science and academia, along with the emotions this arouses, by means of coded interviews that are processed in the first phase of the fieldwork. In this first theoretical examination and the presentation of the issue at hand, our proposal will focus on an analysis of the subject of research in the world of Spanish science and academia.

⁴⁹ Fairhurst, G.T. & M. Uhl-Bien (2012) “Organizational discourse analysis (ODA): Examining leadership as a relational process”, *The Leadership Quarterly*, 23(6), pp. 1043–1062.

Carrasco, C. L., & Belli, S. (2023). “Back and forth” between the individual and the group: collaboration and emotional leadership in science. *Journal of Organizational Change Management*, 36(2), 305-325.

⁵⁰ Harré, R. & L. van Langenhove (eds.) (1999) *Positioning Theory: Moral contexts of Intentional Action*. Oxford, Blackwell.

⁵¹ Sutherland, N. (2016) “Investigating leadership ethnographically: Opportunities and potentialities”, *Leadership*, 14 (3), pp. 263-290. Carrasco, C. L., & Belli, S. (2023). “Back and forth” between the individual and the group: collaboration and emotional leadership in science. *Journal of Organizational Change Management*, 36(2), 305-325.

2. Regarding the Pipe Dream of ‘Objectivity in Science’: How Can the Scientific and Academic Gender Gap be Explained?

It seems clear that fewer women exist in many departments, particularly in some fields of knowledge, and despite being obvious, the potential causes have not always been analysed, not even by women scientists and academics themselves. When asked directly, they only allude to this possibly happening in their own department or specialised field:

There are women, but not many, in this department: there are much fewer women who are professors, and specifically in my field, which is, let’s say, “micro” (Interview 3, woman).

The aforesaid phenomenon of the “scissor” or “leaky pipeline” effect is also observed in various fields, particularly in areas like academia or career progression⁵², where there's an imbalance or loss of representation of certain groups as one moves up the hierarchy. In academia, this might refer to the decreasing representation of women or minorities as one moves from undergraduate to graduate studies, faculty positions, and higher administrative roles. It reflects a disparity in retention and advancement opportunities for these groups compared to others. As the people interviewed also appreciated, there are many women taking master’s degrees, working at laboratories or training, but men tend to hold senior positions and be PIs.

Well, it caught my attention that many PIs tend to be men; that is genuinely the case. There are obviously also many women, but you end up realising that there is a high proportion of women on bachelor’s and master’s degree courses and the suchlike. And there are also many women in laboratory groups. But then, with the PIs, in the end there is a higher proportion of men. I don’t know to what extent there is a major bias in that regard [...], I just don’t know. Something else that grabbed my attention is that many of the technical staff tend to be women. [...] Yes. The truth is that... Even in companies, there was only one male. While there were some 20 of us. But, in contrast, the bosses were two men. There were also women bosses but the top bosses, they were men (Interview 14, woman).

The lack of female references is alluded to in the interviews as one of the possible explanations that may lie behind this lower number of women,

⁵² Shaw A.K. & D.E. Stanton (2012): “Leaks in the pipeline: separating demographic inertia from ongoing gender differences in academia”, *Proceedings of the Royal Society of London*, 272, pp.3736–3741.

And if, on top of that, you add the lack of female references which, let's see, they do exist, don't they? We are starting to see that... there are starting to be female references, but there are undoubtedly more men... if you add that and then, well if you add everything, how you are brought up, how you are educated, the mental burden when you get home to your partner and everything else, well, I imagine that this makes it easier for there to be more men than women in the world of science (Interview 15, man).

When talking about the work environment and the daily routine at work, the existence of overly competitive and highly demonstrative attitudes becomes clear, which could even lead to hindering collaboration⁵³. These attitudes may hinder collaboration and teamwork, as individuals may prioritize personal achievements over collective goals. This competitive environment can create barriers to effective communication and cooperation, ultimately impeding the organization's ability to work cohesively towards shared objectives. Specifically, the following interviewee calls this “male egos”:

And one of the greatest difficulties I encountered regarding teamwork and working with partners is the male ego. They are very complicated, truly complicated. I was going to say this particularly applies to older men, but I can see that younger men are more or less the same. That is complicated. The case is that in Humanities there have been more women for some time now and then, as part of a team, things can go relatively well and you are in an environment that is almost like an office, which is quite toxic, which is the coexistence that takes place in a single building with other teams. This is sometimes an added complication. And there is often an atmosphere of rumours, of mistrust, such that... This happens in coffee breaks, in corridors, in this kind of office atmosphere (Interview 4, women, PI at ERC).

This climate of competition and of a quite aggressive attitude is what, on occasions, demotivates and discourages some women in the sample,

It is true that above all in the field of economics we are all very critical of – what need is there to be aggressive? It is perhaps this attitude that discourages women... more women from signing up to this field, etc. (Interview 3).

⁵³ López Carrasco, C., & Belli, S. (2023). “Back and forth” between the individual and the group: collaboration and emotional leadership in science. *Journal of Organizational Change Management*, 36(2), 305-325.

Some women allude to the fact that they do not feel excluded or consider it necessary to change anything, alleging that there is no talk about gender discrimination in their team and that neither do they feel called on to do or say anything in this regard simply because they are women.

Personally, I don't believe I have seen any gender bias against women. That's what I believe. Or at least nothing that I have seen. I certainly don't think so. I haven't been excluded or anything like that just because I'm a woman (Interview 14, woman).

On occasions, women scientists argue that at the start of their career or when they were younger, they were not aware of certain forms of discrimination or, if they were, due to their situation of job instability or precariousness, they didn't want to mention it in case this had any negative consequences⁵⁴. Sometimes, with the passing of time, they become more aware of this situation, of the reality of the dynamics and, with greater job stability, their attitude and perspective also change.

I am now fed up with arriving at a seminar and seeing that I am the only woman. Because the attitudes are different, the dynamics are different, which I find somewhat tiresome. So, yes, I am fed up with it but, let's say, I have done my time and travelled my academic journey, I no longer have to aspire to a position, do I? So, I can afford the luxury of finding this tiresome, of being fed up with it and I would prefer it to be another way, but maybe for other women who are starting off their careers (Interview 3).

One issue that seems to be addressed much less when men are researchers, which alludes to the objectivity of science and the fact that there is negative or macho conduct in science, is an individual question of certain people, but not something intrinsic to science, as can be appreciated in the following interview,

Let me stress, I am not sure whether it is something specific, either to science or to my discipline. I don't know. But then I can think of several people who can say to you – look, he is either egotistical – as you have just described to me – or, he is not a scientist. Because, at the end of the day, if you base your research more on this type of question, you are performing bad science. You are performing bad science because what you want, what you are going to publish, is either a replay or a

⁵⁴ González M. & E. Perez (2002) “Ciencia, Tecnología y Género”, CTS+I: Revista Iberoamericana de Ciencia, Tecnología, Sociedad e Innovación, 2.

response not because you feel that bad science has been produced in this publication, but rather because you are going to fuck over, excuse the expression, this other person (Interview 5, man).

This argument, that of the “objectivity of science” emerges on more than one occasion, and is also used by some female scientists, but to a lesser extent. This is always a controversial issue, albeit one strongly supported; in other words, the pipe dream of separating observations from reality of those that observe them, with a view to appealing to the impartiality of the observer when it is the scientific community that proposes and transforms the frameworks, the language and the agreements with a supposed objectivity that is socially accepted⁵⁵. The problem of “recognition of excellence solely on the basis of pure merit does not always work well in practice and the idea that academic excellence is not always gender-neutral is not an easy subject in the academic world”⁵⁶. Furthermore, some men do appreciate that discriminatory attitudes exist regarding gender within the field of science,

There are not a lot of girls in science, there are few female references, in other words, it is... in the end, I imagine this is the case, but I cannot say much as to this. And I am sure that I have done things that have annoyed some girls or... but anyway, I cannot speak much as to this matter. I don't see battles of egos in the laboratory that affect girls, and as I don't and haven't seen them, although I am sure sexist attitudes exist (Interview 15, man).

As regards the question of collaborating in scientific teams, most interviewees consider that clear nuances or differences exist according to the gender of those making up these teams. According to the following post-doctoral researcher, although there is still a long way to go on gender equality in Spain compared with other European countries, what has caused this is that their bosses tend to be women, which is what marks the difference.

There are relatively few of us women that are post-doctoral researchers. There are a great many more male researchers. Hence no, there is not much sensitivity regarding this question because we are in the minority. But of course, people... well, I have always worked with well-educated, elegant people and... if it isn't about gender issues, it is about issues of general culture

⁵⁵ Popper K.R. (1977): *La lógica de la investigación científica*. Madrid, Tecnos.

⁵⁶ League of European Research Universities-LERU (2018) "Implicit bias in academia: A challenge to the meritocratic principle and to women's careers. And what to do about it". Advice paper, number 23.

which, let's say, haven't discouraged me. I haven't been made to feel like I don't belong in this field (Interview 19, woman).

She carried on by asserting that the fact that her PI is a woman is something that contributes and stands out in her group, which reflects the general culture of the group, the organisational and cultural definition of the nature of this group.

I feel that Mercedes treats us with a proximity that would be hard to find in a man. [...] Because she is a very busy woman, but somehow she tries to find out what is going on in her team, how you are personally (Interview 19, woman).

In the last few lines of this excerpt, we can identify how emotions differ in gender relations and leadership style. The interviewee gives us an example of how women in science try to look more into and become more familiar with many dynamics that go beyond the academic context but which affect the daily work. What we can deduce from these words from the interviewee is that a more emotional/closer/more caring relationship exists when a woman holds a position of leadership, while it is more distant and is less in-depth as regards sentiment when a man holds this position, which corresponds to traditional and hegemonic concepts in terms of masculinity and femininity. Many people interviewed, particularly women, agreed on the need for women to be members of groups and stressed the importance of all the levels of groups being mixed gender, which would also result in greater professional benefits.

When you look at it, it is true, laboratories tend to be particularly women dominated. And particularly women, because the laboratories in Spain are again primarily made up of young people. Students and post-doctoral researchers. [...] Then there is (she laughs) a total change (Interview X3, woman).

3. Analysis of Subtle Forms of Discrimination and Overt Discrimination

Some testimonies can be analysed from an intersectional focus, with a view to seeing the multiple forms of discrimination that operate simultaneously and overlap⁵⁷. In this case, gender discrimination is interrelated with discrimination

⁵⁷ Crenshaw K.W. (1995) "Mapping the Margins: Intersectionality, Identity Politics and violence Against Women of Color", in K.W. Crenshaw, N. Cotanda, C. Peller y K. Thomas, eds., *Critical Race Theory. The key writings that formed the movement*. New York, The New Press.

according to ethnicity/"race", class, gender identity and geographical affiliation, among others. This issue has been studied in recent decades especially by female Afro-American scholars⁵⁸. In the following example, for the interviewee, a PI on an ERC project, the arrogance towards women has certain parallels with the arrogance towards southern European countries since they are lower on the social scale. These asymmetrical power relations are also interconnected with other subtler questions and hence, according to her, these need to be addressed in an assertive and cordial manner.

The issue of male egos is a curious matter. And then you have cultural differences, don't you? There are European countries where the arrogance is tremendous and it doesn't even seem to annoy their own partners; either that, or perhaps the arrogance is mainly exercised against southern European countries or against women. [...] Anyway, these are complicated relationships because there is no clear power hierarchy as exists in other companies, with promotions and money; only your reputation. (Interview 4, woman).

Similarly, this intersectional approach comes out over the course of the interviews, taking into account other social variables, as in the following case regarding class,

[...] I feel that the demands are greater on women than on men. [...] she was married to a very prestigious architect, who then died and she carried on working at a chemist's; she then went away every summer to... to stay somewhere, in France, I think, in other words, there was a lot of work like that, but she clearly had family money and she had helpers to look after her

⁵⁸ Thomas, G. D., & Hollenshead, C. (2001). Resisting from the margins: The coping strategies of Black women and other women of color faculty members at a research university. *Journal of Negro Education*, 166-175. Myers, L.M. (2002) *A Broken Silence: Voices of African American Women in the Academy*. Westport, Greenwood. Rollock, N. (2019) *Staying power: the career experiences and strategies of UK Black female Professors*, London: UCU. Flores, Y., Gutiérrez, G. & González, C. (ed.) (2020) *Presumed Incompetent II: Race, Class, Power, and Resistance of Women in Academia*. Louisville, University Press of Colorado. Dupree, C. H., & Boykin, C. M. (2021). Racial Inequality in Academia: Systemic Origins, Modern Challenges, and Policy Recommendations. *Policy Insights from the Behavioral and Brain Sciences*, 8(1), 11–18. Avery, D. R., Darren, K. B., Dumas, T. L., George, E., Joshi, A., Loyd, D. L., van Knippenberg, D., Wang, M., & Xu, H. (2022). Racial Biases in the Publication Process: Exploring Expressions and Solutions. *Journal of Management*, 48(1), 7-16. Holmes, O., Smith, A.N., Loyd, D.L. & Gutiérrez, A.S. (2022) "Scholars of color explore bias in academe: Calling in allies and sharing affirmations for us by us". *Organizational Behavior and Human Decision Processes*, 173. National Science Foundation (2012): *Science and Engineering Indicators 2012 (NSB 12-01)*. Arlington, National Science Foundation.

daughters, her children, sorry, in the summer. So, of course, she had these facilities that perhaps other women don't have. (Interview 18, man).

Certain subtler forms of gender discrimination exist, which are thus harder to identify. The following interviewee talks about her perspectives of the difficulties she has in being taken seriously at work because, according to her, she is firstly seen as a woman and not as an academic or scientist.

I feel that when I go somewhere, firstly I am seen as a woman and then as a researcher. [...] It is hard to take what I do seriously, isn't it? [...] Yes... or catch others' interest, don't you think? Oh... or... become... you know? The Smurfette. [In answer to the question, you can detect some level of competitiveness or aggression in her language] Quite the opposite. I would say a certain level of moderation, wouldn't you? When people talk to me, it's a bit like when they talk to a baby. [...] This can also seem somewhat aggressive, don't you think? (Interview 19, woman).

What she is saying and how it makes her feel is considered to be 'benevolent sexism'⁵⁹; in other words, promoting the stereotype of women as weak people that need to be protected by men. And despite her clearly giving voice to the fact that they treat her like a child, she does not consider that they discriminate against her due to this subtlety and to symbolic violence that is sometimes imperceptible⁶⁰.

A clear form of discrimination on grounds of gender, as well as being a turning point in the scientific and academic career of women, is maternity, and everything this represents, such as the pregnancy, upbringing, breastfeeding, care, etc., a question that emerges in all the interviews. Paternity leave is not such a major sacrifice, not even the impossibility, on occasions, of combining one's private life with one's personal and family life, as it is for women scientists of all ages in our sample, whether they have requested maternity leave or not. For the following interviewee, a PI on an ERC project, paternity is not a problem in combining it with their work; however, he is aware that the situation for women differs considerably and reflects on what it means to them:

[in response to the question, he says it is possible to combine paternity leave with his scientific work]. It is true that the

⁵⁹ Glick P. & S. Fiske (1996) "The ambivalent sexism inventory: differentiating hostile and benevolent sexism", *Journal of Personality and Social Psychology*, 70, pp. 491-512.

⁶⁰ Bourdieu P. (1999) *Razones practicas. Sobre la teoría de la acción*. Barcelona, Anagrama.

situation is very different for women. Because, in the end, whether you want to or not, even however much you... They always have to invest a lot more. Because it is not only the pregnancy and breastfeeding, at the time in one's career when you have children, this is a crucial moment and it is true that it is... It is more difficult for women, unfortunately, to strike a work/life balance (Interview 10, man).

He questions current social policies at all levels and considers that there should be a more proactive approach to helping women, primarily in resuming their career after maternity. Because, according to this man, the type of disconnection mothers has at an employment level is far greater than for men, which he particularly attributes to biological questions.

“This is not a social aspect. In the end, it is more closely related to biological aspects. It is true that some... Well... In the end, this is a controversial issue, but it is true that... When you are a father, obviously your kids come first and during those first few months or years in general, they will always come first, but you remain connected to your work in such a way that sometimes mothers, for a host of reasons, are unable to do this because they have to... In the end, breastfeeding is very demanding. Because then you have certain dynamics with the children that... Kids want to be with their mothers more.” (Interview 10, man).

Similarly, a pre-doctoral researcher speaks, as a man, about the difficulties women have in relation to their scientific and academic career. In addition to the competitiveness and job insecurity that already dominates scientific fields, the fact of being a woman exacerbates this panorama, mainly due to gender issues, in other words, due to the time given over to caring, the work/life balance and maternity.

So, you have to have a very high level of publication, where any form of distraction pushes you out of the circle, because you don't get any money if you don't publish; if you don't get any money you can't publish, so... (Interview 15, man).

In addition, if you compare the situation of your boss who recently became a dad, but his situation is not comparable with that of any woman who is a scientist, which is why I consider that maternity requires a period of time when it is not possible for a woman to be at the same productive and publication level as a man.

Because this woman loses a minimum of at least one year. Then you have those grants you mentioned – the most recent publications in the last five years. Good Lord, if I had two children in the last five years, which isn't that unusual. So, I completely fall out of the loop. So, I feel that at a scientific level in Spain, [...] this is a total screw-up; in other words, women have everything to lose. (Interview 15, man).

However, this frenetic, competitive and aggressive rhythm that some interviewees talk about encompasses many employment situations, thus perpetuating the system, without criticising it, to such a degree that, according to the following woman interviewed, who also became a mother some years ago, the productivity and gender differences that exist have less to do with maternity than with how you distribute your time and with how committed, or not, you are to your work, without worrying about whether this affects your personal life. This all leads to the normalisation of even things like having to answer an email at midnight.

“Just look, I don't think it is so much combining this, for example, with maternity. It is combining... let's say, I was very struck by what one of my students who has just finished said, which for me was, let's say, I felt this keenly that she decided, and she will do it wonderfully, to go more into the field of teaching. And she is doing a master's degree at the moment... Whereas I feel that she had the talent to become a researcher. But she said to me, “I can't see myself like you, whereby I send you an email and you answer me at midnight” She said to me, “I don't have that capacity for dedication”. And I said, “of course, maybe I answer at midnight but I take my time doing other things. That is the case because I don't have any children. Well, I do have children but they are grown up, I don't need to look after them. That is a life situation. When you have young children, you truly do not have... You organise your day differently.” (Interview X3, woman).

In other words, for this scientist, the heart of the problem of having more responsibility, of dedication to other people and everything related to the matter of care-giving, is due less to the agency of women, because they let themselves be influenced more easily and are fearful of commitment.

4. Conclusions

The incorporation of women in the world of science and academia has improved considerably over recent decades. However, an invisible reality continues to exist, or is even denied, that highlights the relations and structure

of patriarchal power. In the specific case of Spain, as in other ‘Western’ countries, the situation of women in these scientific spheres has improved to intermediate positions; however, there is still a ‘glass ceiling’ in those positions with the greatest power and importance.

We have seen how the situation has improved compared with earlier studies⁶¹; however, there is still a long way to go for employment and professional conditions to be equal for both men and women in science. We acknowledge the limitations of a binary model of gender, and assuming the different gender constructions. In recent years, discrimination due to gender diversity and gender/sex bias in Academia and Science have been pointed out, mainly within STEM⁶².

A qualitative study of this nature can look in-depth at many of the dynamics that still prevail in relation to the inequalities that exist in our daily work contexts. It is clear that each of the aspects we have mentioned in our analysis would need to be studied and compared in different fields of knowledge, because clearly the situation is not necessarily the same. It would also be meaningful to compare small and large universities and scientific institutes and centres, according to their size, along with geographic area, which perhaps other studies could identify.

Consequently, the gender gap in the world of science and academia remains open in view of the primary and secondary data obtained in our research. It is necessary to implement social policies designed to redistribute responsibilities regarding care and a real work/life balance. Should this not occur, not only will the gender gap remain in place but will also tend to grow, as occurred during the recent health crisis caused by the Covid-19 pandemic, where the number of

⁶¹ Fox M.F. (2010) “Women and men faculty in academic science and engineering: Social organizational indicators and implications”, *American Behavioral Scientist*, 53(7), pp. 997-1012. Shaw A.K. & D.E. Stanton (2012): “Leaks in the pipeline: separating demographic inertia from ongoing gender differences in academia”, *Proceedings of the Royal Society of London*, 272, pp.3736–3741. Larivière V., E. Vignola-Gagné, C. Villeneuve, P. Gélinas & Y. Gingras (2011) “Sex differences in research funding, productivity and impact: an analysis of Quebec university professors”, *Scientometrics*, 87, pp. 483-498. West J.D., J. Jacquet, M.M. King, S.J. Correll & C.T. Bergstrom (2013): “The role of gender in scholarly authorship”, *PLoS ONE*, 8.

⁶² Smith, J. L., Handley, I.M., Zale, A.V., Rushing, S. & Potvin, M.A. (2015). Now Hiring! Empirically Testing a Three-Step Intervention to Increase Faculty Gender Diversity in STEM. *BioScience* 65 (11), 1084–1087. doi:10.1093/biosci/biv138. Hughes, B.E. (2018) Coming out in STEM: Factors affecting retention of sexual minority STEM students. *Science Advances*, 4(3). Boustani, K., & Taylor, K.A. (2020). Navigating LGBTQ+ discrimination in academia: where do we go from here? *The biochemist*, 42(3), 16-20. Cascella, M. & Soares, T.A. (2022) "Bias Amplification in Gender, Gender Identity, and Geographical Affiliation" *Journal of Chemical Information and Modeling* 2022, 62 (24), pp. 6297-6301. National Science Foundation, Division of Science Resources Statistics (2023) Women, Minorities, and Persons with Disabilities in Science and Engineering: 2023. Special Report NSF 23-315. Arlington, VA.

research papers and publications by women fell dramatically, among other factors, due to the inequalities in care-giving and in the distribution of leadership⁶³, a question we will address in future publications. It would also be meaningful to act in the first person as academics and scientists in our daily areas in order to deconstruct these practices. Furthermore, the same institutions should strive to raise awareness of equality in labour situations by activating seminars and workshops.

In conclusion, our research underscores the significant strides made in integrating women into the scientific and academic spheres. However, it also sheds light on the persistent reality of patriarchal power structures, which continue to limit women's access to positions of highest authority. While advancements have been noted in intermediate roles, the enduring presence of the "glass ceiling" impedes women's progression to positions of greater influence and significance. Our study contributes to this discourse by offering deeper insights into these dynamics, highlighting the need for social policies that address caregiving responsibilities and promote genuine work-life balance. Neglecting these issues not only perpetuates the gender gap but exacerbates it, as evidenced by the pandemic's disproportionate impact on women's research productivity. Looking ahead, proactive efforts by individuals and institutions are essential to challenge gender biases and foster inclusivity through educational initiatives like seminars and workshops. Through these concerted actions, we can strive towards a more equitable and inclusive scientific community.

⁶³ Viglione G. (2020) "Are women publishing less during the pandemic? Here's what the data say", *Nature*, 581:7809. Cui R., H. Ding & F. Zhu (2020) Gender Inequality in Research Productivity during the COVID-19 Pandemic. Guatimosim C. (2020) "Reflections on Motherhood and the Impact of COVID 19 Pandemic on Women's Scientific Careers", *Journal of Neurochemistry*, 155, pp. 469-470. Pinho-Gomes A.C., S. Peters, K. Thompson, C. Hockham, K. Ripullone, M. Woodward & C. Carcel (2020): "Where are the women? Gender inequalities in COVID-19 research authorship", *BMJ Global Health*, 5:e002922. Andersen J.P, M.W. Nielsen, N.L. Simone, R.E. Lewiss & R. Jagsi (2020) "Meta-Research: COVI-19 medical papers have fewer women first authors than expected", *eLife*, 9: e58807, pp. 1-7. Yildirim T.M. & H. Eslen-Ziya (2021) "The Differential Impact of COVID-19 on the Work Conditions of Women and Men Academics during the Lockdown", *Gender, Work & Organization*, 28(S1), pp. 691–697. Squazzoni, F., G. Bravo, F. Grimaldo, D. García-Costa, M. Farjam & B. Mehmani (2021): "Gender gap in journal submissions and peer review during the first wave of the COVID-19 pandemic. A study on 2329 Elsevier journals", *PLoS ONE* 16(10): e0257919. Dahlberg M.L. & E. Higginbotham (eds.) (2021) *The Impact of COVID-19 on the Careers of Women in Academic Sciences, Engineering, and Medicine*. Washington D.C., National Academies Press, National Institutes of Health.

Ethnic Foods and Multicultural Tastes: Entrepreneurship and Work in Gastronomy of Brazilian Migrants in Italy and Portugal

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Abstract: This article delves into gastronomic entrepreneurship in the food and beverage among Brazilian migrants in Italy and Portugal, shedding light on its significance for social inclusion and the dynamics of ethnic communities. The article explores entrepreneurship as a tool for mobilising individual resources, encompassing cultural, social, and economic capital, to improve migrants' livelihoods. In summary, the gastronomic entrepreneurship of migrants is a tool that generates income and promotes social inclusion, cultural diversity, and the preservation of culinary traditions, thereby contributing to social cohesion and enriching host communities. This study holds significant implications for understanding social and cultural dynamics in contemporary globalised societies, underscoring the importance of gastronomy as a vehicle for integration and cultural expression.

Keywords: *Gastronomic entrepreneurship; migration; social inclusion; cultural identity; ethnic gastronomy.*

1. Introduction

Entrepreneurship is a form of mobilisation of all the resources of the individual in terms of cultural, social, and economic capital, aiming at improving their living conditions (De Bruin. Dupuis, 2003). It is a relational process through which people participate with the surrounding society and

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express their agency - defining and legitimising their individuality (Pfeilstetter, 2022). In this sense, the role of entrepreneurship in the context of increased mobility of people, goods, and ideas brought about by globalisation (Appadurai, 1996) can be considered a way forward for social integration, specifically in-migrant communities.

Food is an ever-moving element that accompanies any migration phenomena, which causes changes in food uses and the communities of departure and arrival. Ethnic foods are defined as foods originating from an ethnic group's heritage and culture that uses its knowledge of local ingredients of plant and animal origin (Kwon, 2015). Food has a bond with those who produce it and, at the same time, constructs new identities; it is a product that creates and nurtures new spaces of daily cultural life for all social levels, also becoming part of the collective imaginary that defines a national community (Cattarulla, 2019). In all cultures, food is sharing, community, and hospitality; it is an international language that is not spoken but tasted and felt. Food can help build relationships worldwide; it is a tacit ambassador, uniting people from different cultures who would not otherwise cross paths and immediately providing common ground. Food is a symbolic medium for making statements about cultural identity, national identity (James, 1997), and social class/status (Bourdieu, 1984).

Migration and integration of immigrants are essential aspects of contemporary globalised society. In this sense, a fundamental question arises about how to promote the full participation of immigrants in the host society. The study is carried out through ethnographic research to identify and explore the experiences of entrepreneurship and work in the gastronomic sector of Brazilian immigrants in Italy and Portugal and their contribution to social inclusion, providing job opportunities, cultural interaction, and participation in the local community.

Ethnic and immigrant businesses have been included in recent debates about migration (Ramadani et al., 2019), as the ventures bring a sense of belonging to ethnic communities (Casado et al., 2020). Food has symbolic and cultural values, rescuing immigrants' sense of community, as seen in culinary speciality stores and traditional restaurants in ethnic enclaves; in addition to growing consumer interest in authentic and traditional products, ventures can generate wealth and jobs, introduce new eating habits, and promote typical immigrant festivities (Everts, 2010).

Ethnic cuisine also falls within the renewed interest in food and artisanal production (Bell & Vachhani, 2020; Naudin & Patel, 2020; Ocejó, 2017; Thurnell-Read, 2019; Ratten, 2022), which makes "neo-artisanal" industries artisanal producers such as artisanal coffee roasters, cider makers, craft brewers, potters, gin distillers, barbers, artisanal ice cream makers, and whole-

animal butchers (Land, 2018; Scott, 2017)-a way to make a living and an attractive alternative to unemployment or increasingly precarious and low-paid employment in service occupations (Jakob, 2017; Luckmann, 2018). In addition, neo-craft industries have especially attracted young adults because these occupations are vocations that provide personal and lifestyle meaning, in which there are values such as autonomy, improvisation, creativity, competence, playfulness, local identity, and pride of work (Sennett, 2008; Carr & Gibson, 2016; Thurnell-Read, 2014; Ocejo, 2010).

Migrant culinary entrepreneurship can give visibility, singularise, and qualify migrants' capabilities by transforming their stories, identities, and culinary skills into 'valuable assets' (Lugosi, Allis, 2019). According to Scott and others (2012), entrepreneurs mobilise migrants' cultural capital to create use value (i.e., chefs' culinary skills produce tasty and attractive food), highlight the identity of countries of origin with the experiences of consuming *ethnic food* and that has an exchange value in a cultural market (Bourdieu, 1984), besides introducing, in the host country, food and culinary practices rooted in the culture and values of cultural and gastronomic diversity, in this case, Brazilian variety, as well as providing sustainable income for Brazilian entrepreneurs abroad.

The study is conducted through a literature review and an empirical analysis developed through qualitative case studies using methodologies such as in-depth interviews, participant observation and virtual ethnography on the businesses' Facebook and Instagram pages. The case studies were based on the experiences of Brazilians as craft brewers in Lisbon, Portugal and Brazilians who own a craft gelateria in Arezzo, Tuscany, Italy. The characteristics of the Brazilians' entrepreneurial experiences are articulated with the literature on migrant entrepreneurship and with the literature on artisanal entrepreneurship, and explores the resources used - and the trajectories and opportunities taken - to undertake in the host country, highlighting the interactions between contextual conditions and individual socio-cultural and economic resources in the entrepreneurial process. Migrant entrepreneurship presents promising opportunities in a growing multi-ethnic society, but it needs to be analysed in each social, cultural and economic context.

The study will serve as a model for the study of other migratory experiences in the field of gastronomy, will reinforce the importance of policies and projects for the inclusion of migrants and will give visibility to the experiences of entrepreneurs, particularly Brazilian culture, diversity and multiculturalism, as well as stimulating new studies and contributing to the Brazilian migrant community by sharing information, experiences, licenses and business models.

2. Artisanal Entrepreneurship

In academic literature, the subgenres of "craft-based entrepreneurship" (Smith, 1967), "artisan entrepreneur," and "craft entrepreneurship" are gaining increasing recognition (Hoyte, 2019; Ferreira et al., 2019; Pret & Cogan, 2019; Ratten et al., 2019; Crowley, 2019; Solomon-Blake & Mathias, 2020), resulting in a growing body of literature with special editions and calls for book chapters on the subject. Indeed, regarding entrepreneurial identity, the "artisan-entrepreneur" possesses a specific identity, often based on their particular art form and industry standards, commonly identified as an artist, sculptor, ceramist, etc., rather than an entrepreneur. Many actively reject the entrepreneurial identity in favour of one more aligned with the creative sector. Furthermore, in the past, craft entrepreneurship has been associated with subsistence entrepreneurship and small/micro-businesses (see Pret and Cogan 2019), as well as a specific type of creative personality centred on four personality-based identity dimensions: cultural heritage, community entrepreneurship, craftsmanship, and innovation (Hoyte, 2019).

Crowley (2019) states that "craft entrepreneurship" encompasses marketing goods and products intrinsically linked to manual creation, locality, and tradition. Crowley argues that much of the research on artisan entrepreneurs has thus far focused on micro and meso-levels, neglecting macro-behavioural aspects. Similarly, Hill (2020) contends that artisans engage in collaborative business solutions that emerge from the interaction between product materiality, social relationships, and personal resources, such as entrepreneurial social capital.

There are several definitions of artisan. According to the Cambridge Dictionary, a craftsman is a person who performs skilled work with their own hands. Tweneboah-Koduah and Adusei (2016) define artisans as people with special skills in manually producing products from simple materials. They have the art of creating a unique functional or decorative piece of an object using traditional techniques. The International Labour Organization (2003) defines artisans as making handmade products. They usually work individually but can often be helped by family members, friends, or apprentices, even a limited number of workers, with whom they are constantly in close personal contact. This contact generates a sense of intellectual community and attachment to the craft.

Craft entrepreneurship has strong ties to the culture and lifestyle sector. All artisans incorporate some form of cultural practice into their business activities. Craft entrepreneurs are the same as other types of entrepreneurs seeking market opportunities. Still, they differ in their use of manual techniques and tradition in business practices. The products made by artisans

can be called artisanal because of the simple tools used to make them (Jones, Klapper, Ratten, & Fayolle, 2018). These products are typically customised and inspired by an ethnicity or culture. The skills needed to make handmade products require years of practice and training. This gives handmade products a distinctive aesthetic appeal to buyers.

Craft practices play a significant role in livelihood options in developing countries (Pret & Cogan, 2019). Traditionally, craft businesses have been strongly tied to specific places and localities, often associated with cultural business typologies (Brown, 2015). In the literature, artisans are differentiated by the nature of their activities, while in other cases, they are classified based on distinct purposes or values (Tregear, 2005). Over time, artisans have created valuable products in their communities to meet social demands.

Artisanal products are those made by artisans, entirely by hand or with the aid of manual or even mechanical tools, as long as the artisan's direct manual contribution remains the most substantial component of the final product. They are products without restrictions in quantity and use raw materials from sustainable sources. The uniqueness of craft products comes from their distinctive characteristics, which can be helpful to aesthetic, artistic, creative, culturally related, decorative, functional, traditional, religious, socially symbolic, and significant.

Recent literature dealing with handicrafts sees artisans who also operate as sole proprietorships or microenterprises as requiring practical skills, material knowledge, and creation skills, as well as entrepreneurial skills such as business management and personal techniques, e.g., networking (Luckman, 2015; Luckman, Andrew, 2020).

Viewing craft entrepreneurship as the enterprise's creation, organisation, and management mode is essential. Applying human skills leads to product design and manual labour to create valuable products or services with some aesthetic value. "Craft entrepreneurs" make a living by creating significant value using manual labour. Craft entrepreneurs have a very high technical mastery and possess specific practical skills as experts in their respective fields.

The motivations behind pursuing craft entrepreneurship and definitions of success in the craft sector are diverse (Naudin & Patel, 2020). However, they are commonly associated with the desire for autonomy and job satisfaction (Banks, 2010) or the preservation of craft practices (Tregear, 2003) rather than financial gain. Handicrafts and manual labour are often considered authentic and meaningful work (Bell et al., 2018), countering standardised mass production and global mass consumerism (Dudley, 2014; Luckman, 2015). However, craft economies and the work and experiences of craft entrepreneurs are also influenced by their relationship to production and consumption (Bell et al., 2018; Luckman, 2015; Naudin & Patel, 2020).

According to April (2022), craft entrepreneurs are driven by their imagination, creativity, and desire to experiment and express themselves. This identity is amplified through artisan entrepreneurship; thus, the products created are linked to the identity of the artisan and convey a very personal experience of their life stories, experiences, and meanings. The artisan identity provides a sense of personal pride, fulfilment, and enormous satisfaction.

3. Migrant Entrepreneurship

Studies have mainly seen immigrant entrepreneurship as an alternative path to economic incorporation and upward mobility for marginalised immigrants in the conventional labour market (Portes & Rumbaut, 1990). Immigrant entrepreneurship significantly impacts the socio-economic development of ethnic communities and countries of origin. Understanding the entrepreneurial motivation of immigrants is therefore crucial for researchers, policy-makers, and practitioners.

Migrant entrepreneurs encounter unique challenges that local entrepreneurs do not face in navigating and integrating into a new sociocultural environment (Robertson & Grant, 2016). For example, migrants' perceived social exclusion from cultural distance and conflict can affect their acculturation strategies and economic decisions (Schwartz et al., 2010; Zhou, 2004), just as entrenched cultural factors in host regions affect migrant entrepreneurship.

Immigrant entrepreneurship is increasing due to the weak position of immigrants in the labour market in most European countries, and many immigrants have difficulties finding a job. Hence, they create their businesses (Najib, 2000). Immigrant entrepreneurship is usually positioned within the broader established literature of minority entrepreneurship (OECD, 2017), and it also relates to the recently conceptualised topics such as transitional entrepreneurship, which includes those entrepreneurs who are socially, institutionally or resourcefully marginalised (Pidduck and Clark, 2021). A conventional “disadvantaged” perspective suggests that immigrants pursuing entrepreneurial activities in their new host country is a typical response to blockages in career mobility experienced in the labour market (Guercini et al., 2017; Treviso and Lopez, 2018).

The researchers argue that immigrant entrepreneurs go into businesses of restaurants, cafes, and related businesses due to disadvantages in other types of companies; it also claims that these types of businesses do not require high expertise and do not require fluent in the language of the host country, which is seen as a reason they engage in these types of businesses. Furthermore, Min Zhao (2013) argues that these business startups could also be attractive because

of the ethnic enclaves and networks. An ethnic enclave is an area that has a high concentration of people with similar nationality and backgrounds.

In determining the factors that impact immigrant entrepreneurial activity, the notion of social, human, and financial capital (Bourdieu, 1986; Becker, 1993) has been successfully applied to understand the new venture creation process among immigrants. Achidi Ndofor and Priem (2011) point out that immigrant entrepreneurs' endowments of economic, human, and social capital, together with their degrees of social identification within their co-immigrant community, influenced their strategic choice to start a business focused on their ethnic enclave or the dominant market.

According to Peroni (2016), the theories seeking to explain the relationship between immigration and entrepreneurial involvement can be categorised into two broad groups: the first group relies on specific features of immigrants to explain differences in the propensity to start a business compared to non-immigrants; the second group focuses on the institutional and cultural environment of the host country.

According to Nazareno et al. (2018), researchers have focused on immigrant entrepreneurship because of the importance and difficulties of integrating newcomers into the society and workforce of host countries. Entrepreneurship literature often proposes that entrepreneurship can promote the integration of immigrants in host countries.

Cultural theories focus on specific characteristics of immigrants, rooted in culture, that make them more inclined toward new venture creation (Berger, 1991; Light & Rosenstein, 1995; Dana et al., 2019). These concepts also discussed the cultural origins of choices of business and industry type (Leung, 2002). This means that the changing character of migration has resulted in changing patterns of work activities. On the one hand, more high-skilled migrants find their place in a host country's labour market; on the other hand, high entrepreneurial motivation is not always translated into the creation of new ventures.

Kushnirovich et al. (2018) claim that the paradox between immigrants' high entrepreneurial motivation and perceived low likelihood of pursuing entrepreneurship is quite common. The high level of apparent risks (immigration-related) experienced in the past affects immigrants' risk-taking propensity and decreases the perceived feasibility of establishing businesses.

While entrepreneurship can be defined as innovation, efficiency or a set of business processes, most sociologists and economists define the concept as self-employment or business ownership (Chaudhary, 2015; Fairlie & Robb, 2008). Immigrant and ethnic entrepreneurship, in turn, refers to the self-employment or business ownership of immigrants and ethnic minorities. Given that entrepreneurship is often associated with ideals of independence,

perseverance, and self-reliance, popular narratives describe self-employment as a viable strategy for the socioeconomic mobility of immigrants and minority groups (Light and Gold, 2000; Zhou, 2004).

Wauters and Lambrecht (2006) point out that entrepreneurship is a means of integrating newcomers and boosting domestic entrepreneurship. In addition, immigrant entrepreneurs play an essential role in inserting themselves into the labour market because they create jobs for themselves and other immigrants who may have difficulty finding work (Hammarstedt & Miao, 2020).

The literature on lifestyle immigrant entrepreneurs has also pointed out that these immigrants contribute with new knowledge, resources and international contacts to local development and have the potential to establish networks between their former home countries and new settings (Stam, 2010; Carson et al., 2018). This aligns with understanding ethnic entrepreneurship from a “culturalist” approach. This understanding stresses businesspeople and self-employed workers' distinct group-specific cultural repertoire regarding cultural values, behavioural patterns, collective resources, and coping strategies (Rath, Kloosterman, 2000; Zhou, 2004). It also emphasises the role of intra-ethnic networks in entrepreneurship. Access to these social capital resources is associated with ethnic solidarity, based on expectations of mutual support between community members, which are united by cultural similarities and difficulties in accessing formal support systems (Sommer, Gamper, 2018).

Elias (1991) contends that knowledge of and cultural competence in national symbols and practices constitutes an embodied, taken-for-granted “we-identity,” which will vary between groups but does not provide an examination of variability within the groups. Product patriotism is how an individual lives and expresses his national identity via various consumptions of a nationally iconic product.

DeSoucey (2010) and her conceptualisation of gastronationalism outline that national boundaries emphasise universality in terms of national symbols (i.e., food), which become markers of national identity. However, as the product of patriotism, one must not just bear in mind universal, recognised, and fixed collective symbols (e.g., flags, anthems) but also specifically examine the variations in how these are practised. “Even though identities feel stable, identities and the content of these identities change as a function of context” (Oyserman & Schwarz, 2017, p. 533).

Thus, product patriotism represents an individual's flexible and dynamic national identity, expressed through consumption practices that distinguish the individual from others within a nation rather than between countries.

The history of the twentieth century bears witness to the central role played by class conflict and interest representation in building social solidarity and consolidating democracy in Western European countries. Yet more recently,

international capitalism has radically changed the game's rules, downplaying the role of social economic representation in policy-making. As a result, social partners and policy-makers in the new millennium have to renegotiate the terms of their social contract.

4. Food and Drink: The Authenticity of Migrant Artisanal Production

Migrant markets are a critical but understudied part of a more extensive, complex process of creating migrant food cultures and generating consumer identities around global goods. There is still a lot we don't know about the roles of migrants as international catalysts of food cultures and culinary change. Food and drink are connecting elements between migration and food trade and production histories, with migrants as global food producers and consumers. Research by scholars of migration and food studies has explored questions about individual and collective subjectivities formed through food, the racialisation of migrants and their ways of eating, ethnic food entrepreneurship, intersections between empire-building and migrant food cultures, and intercultural culinary exchanges between migrants and non-migrants (Zanoni, 2018).

Food has also become an element of the principle of integration of nations and communities. In recent years, it has even attracted attention as a diplomatic tool to deepen economic and political relations between countries, as seen with the practice of "Gastrodiplomacy" or culinary diplomacy. This situation has encouraged debates relating to human nutrition's challenges in the context of broader political and economic systems in modern history (Colás, 2018). The gastronomic sector is diverse without a single clear definition. However, it is roughly defined as the practice or art of choosing, cooking, and eating well (according to the Oxford Dictionary of English). Furthermore, the abovementioned description offers ample room for different interpretations and perspectives. However, there is an understanding that gastronomy involves the art of cooking and serving food with possible connections to local or regional aspects (geographically or culturally determined) and with more or less relation to the underlying science of food and eating (Bogers, Jensen, 2017).

In our study, we identified that in the breweries, as in the gelateria, a strong sense of locality is promoted in terms of the origin of the owners, the regions where the ingredients come from, and the use of the local as the basis of the brand's identity. The most important aspect is that in these companies, a sense of authenticity is created and promoted, i.e., the idea of a product full of integrity, truth, and realism as indicators of its quality. Moreover, a product can be authentic because it is handmade and comes from a unique place.

After more than 12 years of operation, the owners of an artisanal gelateria in Arezzo, Tuscany, faced a series of challenges when they decided to focus on Brazilian ingredients. An Italian and a Brazilian couple had always run the gelateria, and this decision to create authentic, truly unique ice creams not found in other establishments became a way of incorporating cultural and gastronomic elements from their respective origins, strengthening bonds of belonging and providing a space for cultural identity.

As part of building this ethnic identity, Brazilian flavours are presented in Portuguese and identified with the Brazilian flag, taking up approximately half of the available flavour options. As the owners point out, "to mix traditional flavours with the flavours and aromas of the Brazilian land" to provide the opportunity to "discover exotic and curious ice creams, without taking away space from the classic and delicious creams," such as "dulce de leche" and "maracuja". The main initial challenge was to create a culture of ice cream consumption with non-traditional flavours in a food sector with a long tradition and being a product that is part of the internationalisation of Italian cuisine.

As part of building this ethnic identity, Brazilian flavours are presented in Portuguese and identified with the Brazilian flag, taking up approximately half of the flavour options available. As the owners point out, the main initial challenge was to create a culture of ice cream consumption with non-traditional flavours in a food sector with a long tradition, as well as being a product that is part of the internationalisation of Italian cuisine.

In Portugal, specifically in Lisbon, during our fieldwork, we identified craft breweries owned by Brazilians who seek to establish their roots in the recipes of their beers, in the dishes served on the menu of the breweries' pubs, and in the music played in these places, always with an emphasis on Brazilian music. I identified beers made with fruit of Brazilian origin, feijoada served on Saturdays, cheese bread, and beer with the name "Chimas Blonde," linking the tradition of "chimarrão" in the south of Brazil with the Blonde style, as well as using the connection between Porto Alegre and Lisbon on social media.

Artisanal entrepreneurs, especially immigrant artisans, emphasise the importance of the way craft objects are communicated. As Cope (2014) suggests, storytelling is one of the critical ingredients of any product, as artisans need to tell their story and the story of their sector to add value to products that have long been available in cheap, low-quality types and mass-produced varieties. Telling a good story about the product on offer is vital and means that, as Smith Maguire et al. (2017, p. 33) note in their study of craft brewers, "these stories are always about more than the beer in the glass" and the same can be thought of about ice cream producers, a glass of ice cream is about

much more than ice cream, especially exotic ice creams, it contains stories about the country of origin, its flavours and typical fruits and ingredients.

The construction of artisanal products takes place through these representations that combine flavour, authenticity, craftsmanship and history, all of which are available in the representations of artisanal products, in this case, with a dash of ethnicity. In this way, the representations and narratives of origin transform beer and ice cream into artisanal, authentic and ethnic products. According to Smith Maguire et al. (2017), authenticity is embedded in craft skill and inseparable from it. To understand the organisation of craftsmanship, an understanding of authenticity is necessary because, according to them, craftsmanship is a genre of authenticity.

According to Mancuso and Stuth (2014, p. 18), storytelling involves "conveying messages and sharing accumulated knowledge and wisdom to help navigate and explain the world around us". The storytelling elements are part of a storytelling strategy: craftsmanship, innovation, authenticity, provenance, identity, and locality. As Pine and Gilmore (2016, p. 3) noted about the "experience economy", consumers "want their purchases to be authentic experiences, memorable events that engage each individual in an inherently personal way".

According to Ocejo (2017), artisans present their products through their interactions with customers and seek to inculcate in them similar beliefs based on the "teaching service" in which not only the physical qualities of the product are described but the philosophical and social values that underpin its production. This is why many artisan companies open their doors to curious customers who are taken to witness the artisan work in situ through formal tours, on-site guided tastings or more informal interactions.

Brazilian craft breweries in Lisbon refer to local places and traditions through the names and labels of their beers. This can help newcomers share the cultural history of a place through the consumption of a distinctly local product (see Schnell; Reese, 2003), creating a familiar narrative of the history of a particular place, in the case of the LisPoa Craft Beer brewery a mix between the Arroios neighbourhood, an area of the city of Lisbon that has undergone a process of urban regeneration and is currently an area with many tourist attractions, with the owners' connection to their city of origin, Porto Alegre, in the south of Brazil, according to them "the idea was to unite the passion for Lisbon, their home since 2017, and Porto Alegre, where they had made their lives until then".

The names of beers and breweries generally reflect local landmarks, historical figures, landscapes, historical events, etc. Although most of the ingredients used in the production of beer, with the exception of water, are imported, there is a growing interest in using more locally grown ingredients, thanks to

the increase in the areas of cultivation of cereals for malting and national hops. When this is not possible, the breweries look for other elements to guarantee the authenticity of the beers produced, just as the owners of the gelateria look to exotic and Brazilian ingredients to differentiate themselves in a country where "artisanal gelato" is a tradition.

Authenticity is closely linked to craftsmanship, the origin of ingredients, and the representation of manual labour as a fundamental value. In contrast to the mass production of beer, which is considered inauthentic by many craft enthusiasts, authenticity promotes variety rather than uniformity, seeking to combat the spread of large-scale output and industrialisation (Smith Maguire, 2018).

As the brewery, ice cream parlour, and ethnic food industry grow, it is essential to develop effective marketing strategies to attract customers in a highly competitive market. In the beverage industry, uniqueness is a crucial attribute that increases a brand's competitive advantage and ability to attract more customers (Bai et al., 2006). In addition, customers who frequent breweries, ice cream parlours, and ethnic food restaurants are mainly looking for exotic flavours and unique experiences (Jang et al., 2012; JH Kim et al., 2017; SQ et al., 2015), thus making it even more crucial for these establishments to promote their uniqueness.

5. Final Considerations

Entrepreneurship has been an alternative route of upward economic mobility for some immigrant groups, with the culture of their countries of origin often considered an asset for success in business and economic advancement. In this article, I point out that in the beer and ice cream sectors, entrepreneurs use these products not only as material resources but also as symbolic ones to negotiate inclusion through distinction. Their businesses become crucial spaces where these processes take place, using food and drink as social tools in an immigrant business environment to make a profit and construct an identity during the migratory experience.

While previous studies have shown that immigrants' culinary businesses are places where national identities are shaped and the boundaries between the values and habits of the country of origin and the host country are demarcated, this initial study reveals how Brazilian immigrants reinvent their 'Brazilianness' through flavours, bottle labels, typical dishes and national symbols. They promote a sense of authenticity and distinction, contributing to a new understanding of Brazilian culture abroad.

This study highlights the intersection between artisanal food and drink entrepreneurship, migration and social inclusion. Considering food as a vehicle

of identity and cultural expression, it highlights how Brazilian migrant entrepreneurs in Italy and Portugal are redesigning their histories, identities and culinary skills as valuable assets. This transformation results in delicious food that rescues and celebrates the cultures of origin, fostering cultural interactions and integration into local communities.

In addition, the study highlights how ethnic gastronomic businesses can generate income and employment, contributing to social cohesion and introducing new eating habits while strengthening local identity. These businesses promote autonomy, creativity and pride in work, offering an alternative to unemployment and precarious jobs, especially for young adults.

Ultimately, this study underlines the importance of recognising and supporting gastronomic entrepreneurship among migrants as a means of social inclusion and promoting cultural diversity. In addition to benefiting the Brazilian migrant community, it inspires new research and policies that value the economic and cultural contributions of migrant entrepreneurs, enriching host societies in a globalized world.

6. References

- Achidi Ndofor, H., & Priem, R. L. (2011). Immigrant entrepreneurs, the ethnic enclave strategy, and venture performance. *Journal of management*, 37(3), 790-818.
- Appadurai, A. (2016). *Modernity at Large: Cultural Dimensions of Globalization*; University of Minnesota Press: Minneapolis, MN, USA.
- Bell, E., Mangia, G., Taylor, S., & Toraldo, M. L. (2018). *The organization of craft work: Identities, meanings, and materiality*. Routledge.
- Becker, G.S. (1993). *Human Capital: A Theoretical and Empirical Analysis*. University of Chicago Press, Chicago.
- Bogers, M., & Jensen, J. D. (2017). Open for business? An integrative framework and empirical assessment for business model innovation in the gastronomic sector. *British Food Journal*, 119(11), 2325-2339.
- Bourdieu, P. (1984). *Distinction: A social critique of the judgement of taste*. Cambridge, MA: Harvard University Press.
- Bourdieu, P. (1986). The forms of capital, in Richardson, J.G. (Ed.), *Handbook of Theory and Research for the Sociology of Education*, Greenwood Press, London.
- Callon, M. (2021). *Markets in the making: Rethinking competition, goods, and innovation*. Princeton University Press.
- Carson, D. A., Carson, D. B., & Eimermann, M. (2018). International winter tourism entrepreneurs in northern Sweden: understanding migration, lifestyle, and business motivations. *Scandinavian Journal of Hospitality and Tourism*, 18(2), 183-198.

- Carr, C., & Gibson, C. (2016). Geographies of making: Rethinking materials and skills for volatile futures. *Progress in Human Geography*, 40(3), 297-315.
- Casado, R., Falcao, R. P. D. Q., & Cruz, E. P. (2022). Brazilian immigrant entrepreneurs' support networks and bounded (mis) trust in Western Australia. *Population, Space and Place*, 28(1), e2489.
- Cattarulla, C. (2019). Cibo e migrazioni. *Confluenze*, Vol. XI, No. 1, 2019, pp. 1-2
- Colás, A. (2018). *Food, politics, and society: Social theory and the modern food system*. Univ of California Press.
- Cuvi, J., Budon, C., Suter, C., Balsiger, P., & Nedelcu, M. (2021). 1 The New World of Work: Current Trends and Uncertain Prospects. *The Future of Work*, 7.
- Doganova, L., & Eyquem-Renault, M. (2009). What do business models do?: Innovation devices in technology entrepreneurship. *Research policy*, 38(10), 1559-1570.
- De Bruin, A.; Dupuis, A. (2003). *Entrepreneurship: New Perspectives in a Global Age*. Ashgate: Aldershot, UK.
- DeSoucey, M. (2010). Gastronationalism: Food traditions and authenticity politics in the European Union. *American Sociological Review*, 75(3), 432–455.
- Elias, N. (1991). *The Society of Individuals*. Oxford: Basil Blackwell.
- England, L. (2022). Crafting professionals: entrepreneurial strategies for making a living through passionate work. *Innovation*, 1-19. DOI: 10.1080/14479338.2021.2019043.
- Everts, J. (2010). Consuming and living the corner shop: belonging, remembering, socialising. *Social & Cultural Geography*, 11(8), 847-863.
- Flichy, P. (2017). *Les Nouvelles Frontières du travail à l'ère numérique*. Paris : Le Seuil.
- Gamble, J. (2016). Work and qualifications futures for artisans and technicians. *Labour Market Intelligence Partnership Report*, 19.
- Ingold, T. (2013). *Making: Anthropology, Archaeology, Art and Architecture*. Routledge: London, UK.
- Jakob D, Thomas NJ (2017) Firing up craft capital: the renaissance of craft and craft policy in the United Kingdom. *International Journal of Cultural Policy* 23(4): 495–511.
- James, A. (1997). How British is British Food?. *Food, health and identity*, 71-86.
- Jones, P., Klapper, R., Ratten, V., & Fayolle, A. (2018). Emerging themes in entrepreneurial behaviours, identities and contexts. *The International Journal of Entrepreneurship and Innovation*, 19(4), 233–236.
- Kwon, D. Y. (2015). What is ethnic food?. *Journal of ethnic foods*, 2(1), 1.
- Hammarstedt, M., Miao, C., 2020. Self-employed immigrants and their employees: evidence from Swedish employer-employee data. *Rev. Econ. Househ*, 18 (1), 35–68.

- Luckman S (2018) Craft entrepreneurialism and sustainable scale: resistance to and disavowal of the creative industries as champions of capitalist growth. *Cultural Trends* 27(5): 313–326.
- Lugosi, P., & Allis, T. (2019). Migrant entrepreneurship, value-creation practices and urban transformation in São Paulo, Brazil. *Revista Brasileira de Pesquisa em Turismo*, 13, 141-163.
- Nazareno, J., Zhou, M., You, T., 2018. Global dynamics of immigrant entrepreneurship: changing trends, ethnonational variations, and reconceptualizations. *Int. J. Entrepreneurial Behav. Res.* 25 (5), 780–800.
- Naudin, A., & Patel, K. (2020). *Craft entrepreneurship*. Rowman & Littlefield. Oakland, CA: University of California Press.
- Ocejo, R. E. (2010). What'll it be? Cocktail bartenders and the redefinition of service in the creative economy. *City, Culture and Society*, 1(4), 179-184.
- Ocejo, RE (2017). *Masters of Craft: Old Jobs in the New Urban Economy*. Princeton University Press.
- Oyserman, D. (2017). Culture three ways: Culture and subcultures within countries. *Annual Review of Psychology*, 68, 435–463.
- Peroni, C., Riillo, C. A., & Sarracino, F. (2016). Entrepreneurship and immigration: evidence from GEM Luxembourg. *Small Business Economics*, 46(4), 639-656.
- Pfeilstetter, R. (2021). *The Anthropology of Entrepreneurship: Cultural History, Global Ethnographies, Theorizing Agency*. Routledge, London, UK.
- Ramadani, V., Dana, L. P., Ratten, V., & Bexheti, A. (Eds.). (2019). *Informal ethnic entrepreneurship: Future research paradigms for creating innovative business activity*. Heidelberg: Springer International Publishing.
- Rath J., Kloosterman R. (2000). Outsider's business: A critical review on immigrant entrepreneurship. *Geopolitics*, 34, pp. 657-681.
- Ratten, V. (2022). *Artisan Entrepreneurship*. Emerald Publishing Limited.
- Ravenelle, A. J. (2017). Sharing Economy Workers: Selling, Not Sharing. *Cambridge Journal of Regions, Economy and Society*, 10(2): 281–295.
- Sennett, R. (2008). *The Craftsman*. London: Penguin.
- Sommer, E., & Gamper, M. (2018). Transnational entrepreneurial activities: A qualitative network study of self-employed migrants from the former Soviet Union in Germany. *Social Networks*, 53, 136-147.
- Stam, E. (2010). Entrepreneurship, evolution and geography. *The handbook of evolutionary economic geography*, 307-348.
- Thurnell-Read, T. (2014). Craft, tangibility and affect at work in the microbrewery. *Emotion, Space and Society*, 13, 46-54.
- Wauters, B., Lambrecht, J., 2006. Refugee entrepreneurship in Belgium: potential and practice. *Int. Enterpren. Manag. J.* 2 (4), 509–525.

- Zanoni, E. (2018). Migrant Marketplaces: Globalizing Histories of Migrant Foodways. *Global Food History*, 4(1), 3-21.
- Zhou, M. (2004). Revisiting ethnic entrepreneurship: Convergencies, controversies, and conceptual advancements 1. *International migration review*, 38(3), 1040-1074.

Collective Interests in Individualised Work: An Empirical Analysis of Self-Perceptions and Orientations of Platform Workers and their Implications for Regulation and Representation

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Abstract: This paper addresses the question of platform workers' demands and perceived challenges regarding their working conditions. Firstly, it examines these demands and challenges in detail. Secondly, it explores whether, despite the atomisation of workers, there are shared demands concerning the regulation of their working conditions. These questions are investigated using both quantitative and qualitative data. The findings reveal that, despite the prevalence of precarious working conditions and an 'objective' need for regulatory measures in the platform economy as highlighted in previous research, only a minority of the workers studied advocate for collective interest representation. In contrast, the majority support the notion of self-responsibility. These findings indicate significant challenges regarding regulation and representation within highly individualised labour in the platform economy.

Keywords: *Platform work; Working conditions; Collective interests; Regulation; Social security; Mixed methods.*

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1. Introduction

In discussions surrounding the digitisation-driven transformation of the economy at large, with a particular focus on the labour market, platform work has garnered increasing attention. This emergent sector encapsulates various processes of de-standardisation of labour across spatial, temporal, and organisational dimensions¹. Most work within the platform economy is conducted as part-time self-employment and is facilitated online, leaving many workers without a clear spatial-organisational point of reference. In this context, the platform economy provides opportunities for flexible supplementary earnings and a greater degree of autonomy in organising work.

However, this self-determination and individual freedom in the platform economy frequently coincide with unstable and insecure working conditions. Work in this sector is characterised by a high degree of volatility, particularly in relation to significantly fluctuating working hours and income². Platform companies exploit these complexities within the relationship between labour and capital, positioning themselves as new intermediaries that aim to generate profits within multi-sided platform markets³. Consequently, this often leads to precarious employment conditions for platform workers, raising critical questions about the necessity of regulating platform work⁴.

¹ F. Hoose, S. Rosenbohm, *Tension between autonomy and dependency: insights into platform work of professional (video)bloggers*, in *Work in the Global Economy*, 2022, vol. 2, no. 1, 88-108.

J. Schor, S. Vallas, *Labor and the Platform Economy. Reengineering the Sharing Economy: Design, Policy, and Regulation*, Cambridge University Press, 2023.

² A. Pesole, M. C. Urzì Brancati, E. Fernandez Macias, F. Biagi, I. Gonzalez Vazquez, *Platform Workers in Europe. JRC Science For Policy Report. Evidence from the COLLEEM Survey*. European Union, Luxembourg, 2018.

M. C. Urzì Brancati, A. Pesole, E. Fernandez-Macias, *New evidence on platform workers in Europe. Results from the second COLLEEM survey*, European Commission, (JRC Science for Policy Report), Luxembourg, 2020.

A. Piasna, W. Zwysen, J. Drahokoupil, *The platform economy in Europe. Results from the second ETUI Internet and Platform Work Survey*, Brussels, 2022 (European Trade Union Institute Working Paper, 2022.05).

³ D. Cutolo, M. Kenney, *Platform-Dependent Entrepreneurs: Power Asymmetries, Risks, and Strategies in the Platform Economy*, Academy of Management Perspectives, 2021, vol. 35.

J. Drahokoupil, K. Vandaele, *Introduction: Janus meets Proteus in the platform economy*, in J. Drahokoupil, K. Vandaele (ed.), *A Modern Guide to Labour and the Platform Economy*, Edward Elgar Publishing, Cheltenham, 2021, 1-32.

⁴ F. Beckmann, F. Hoose, *From loopholes to deinstitutionalization. the platform economy and the undermining of labor and social security institutions*, in *Partecipazione e Conflitto – The Open Journal of Sociopolitical Studies*, 2022, vol 15, no. 3, 800-826.

Against this backdrop, tensions emerge: collective issues in platform work—such as low incomes, lack of social security, and stark asymmetries between platform companies and workers—confront individual interests and the employment patterns of largely atomised workers. This raises the question of whether collective regulation and interest representation remain essential. It is crucial to distinguish between the 'objective' problems relating to working conditions and their subjective perception, which is influenced by the highly individualised employment strategies and patterns of the workers themselves. These individual self-perceptions are vital for understanding the workers' demands regarding regulation and interest representation. The pressing question is whether common interests exist at all, and if so, how these collective interests can be effectively represented.

Traditionally, collective intermediaries such as trade unions have functioned as "transmission belts"⁵ between workers and employers; however, such actors have been notably absent in the platform economy from its inception. Meanwhile, some grassroots initiatives with innovative approaches, as well as efforts by established organisations (such as industry trade unions like IG Metall), have emerged in this field. Nonetheless, the conditions for workers' participation in established and institutionalised forms of interest representation appear to be unfavourable in the context of the platform economy⁶.

This paper explores the challenges facing workers' representation and their implications for regulating work in the platform economy through two main research questions:

1. What demands do platform workers have, and what challenges do they perceive regarding the working conditions of their platform activities?
2. Are there shared demands among platform workers concerning the regulation of their working conditions, and if so, what are they, and who should represent their interests?

These questions are examined using both quantitative and qualitative data. The quantitative component is derived from an online survey conducted

⁵ R. Dukes, W. Streeck, *From Social Norms to Legal Norms: Regulating Work in Postneoliberal Political Economies*, in E. Kaneff (ed.), *Explorations in Economic Anthropology*, Berghahn Books, 2022, 137.

⁶ F. Hoose, T. Haipeter, *Individualisierte Plattformarbeit und kollektive Interessenartikulation*, in T. Haipeter, F. Hoose, S. Rosenbohm (ed.), *Arbeitspolitik in digitalen Zeiten: Entwicklungslinien einer nachhaltigen Regulierung und Gestaltung von Arbeit*, Nomos, Baden-Baden, 2021, 143–178 <https://doi.org/10.5771/9783748923046-143>.

with German platform workers ($n = 719$) as part of the "Platform Economy and Social Security" project, which is funded by the FIS network of the German Federal Ministry of Labour and Social Affairs (BMAS). Additionally, a second qualitative data collection is currently underway; we draw on 18 interviews conducted thus far for our analysis. These qualitative data are further supplemented by additional interviews (eight interviews with European platform workers conducted in 2020) from a PhD project focused on 'work orientations and employment structures' of platform workers.

The paper is structured into six sections. Chapter 2 provides an overview of workers' motivations and the working conditions prevalent in the realm of platform work, based on prior research. Chapter 3 discusses how platform work diverges from established labour market practices and welfare state institutions and outlines existing labour and social policy measures aimed at improving the employment situation of platform workers. However, little is known about the demands of platform workers themselves concerning representation and regulation. Our analysis focuses on the regulation of social security for platform workers, underscoring that the regulatory and socio-political framework of gainful employment in Germany has historically rested on two foundations: collective regulation at both the company and supra-company levels and state-organised social insurance systems that protect against the risks inherent in modern wage labour.

Clearly, the heterogeneous employment arrangements and individual interests of platform workers pose significant challenges for social protection and regulation within this context. The guiding assumptions of our study are summarised at the end of this chapter. Chapter 4 outlines the data and methods employed in our study. The results of our analysis are presented in Chapter 5: first, we examine the working conditions to which platform workers are subjected, how they perceive these conditions, and the demands and employment-related strategies they advocate in relation to platform work. Second, we elaborate on the demands and expectations of platform workers concerning the regulation of platform work, focusing on whether and to what extent they express a need for the integration of platform work into existing institutionalised structures of employment. Additionally, we consider the desire for collective organisation and representation of interests regarding working conditions. Finally, Chapter 6 summarises the study's findings and discusses the implications for the social protection of platform work and the collective organisation of interests in individualised work contexts.

2. Work in the Platform Economy in Europe

The platform economy is increasingly permeating various spheres of social life. Consumption, information, and communication are progressively mediated through digital platforms, facilitating economic diversity that ranges from sales platforms (e.g. Amazon, eBay) and crowdfunding platforms (e.g. Kickstarter, Patreon) to information, entertainment, and social media platforms (e.g. Google, Netflix, YouTube, Instagram). Alongside this process of ‘platformisation’, labour platforms have emerged as infrastructures for the posting and intermediation of paid work tasks. It is estimated that there are currently 28 million platform workers in Europe⁷, with projections suggesting this number will rise to 43 million by 2025⁸. In Germany, based on the JRC COLLEEM II survey, it is estimated that there are approximately 2.5 million regular platform workers, which corresponds to 5.7 percent of the workforce.

While platform work is often associated with labour platforms that mediate work tasks, it encompasses much more⁹. In particular, social media platforms are gaining prominence in the monetisation of tasks—such as live-streaming on platforms like Twitch or influencing via Instagram—leading to broader interpretations of what constitutes platform work. Our study adopts this expansive perspective on platform work¹⁰.

Although the term "platform work" serves as an umbrella term for all types of platform-mediated and platform-enabled work activities, platform labour markets comprise heterogeneous forms of work. First, platforms vary based on whether the work is performed directly on the platform (as in the case of content creation on social media platforms) or whether the

⁷ It should not be ignored here, that estimates in this regard vary notably due to differences in methods, definitions and operationalisations (Piasna 2021). This is also true for Germany (Rosenbohm and Hoose 2022: 326).

⁸ European Commission, Commission Staff Working Document. Consultation document. Second phase consultation of social partners under Article 154 TFEU on a possible action addressing the challenges related to working conditions in platform work, SWD (2021)143 final, 2021.

⁹ M. Kenney, J. Zysman, *The platform economy: restructuring the space of capitalist accumulation*, in Cambridge Journal of Regions, Economy and Society, 2020, vol. 13, 55-76.

¹⁰ A. Garcia Calvo, M. Kenney, J. Zysman, *Understanding work in the online platform economy: the narrow, the broad and the systemic perspectives*, in Industrial and Corporate Change, 2023, 1-20.

S. Rosenbohm, F. Hoose, *Ambivalences of platform work: the gig economy in Germany*, in I. Ness (ed.), *The Routledge Handbook of the Gig Economy*, Routledge, London, New York, 2022, 324–336.

work is merely mediated through the platform (as is typical of established labour platforms)¹¹. Second, different segments within the platform labour market operate in distinct ways: some are demand-driven, where tasks are assigned to individuals based on algorithmic management or competitive bidding, while others are supply-driven, allowing platform workers to create their own demand, particularly in the attention economy of social media platforms¹².

Third, the nature of work executed in the platform economy differs with respect to skill level. Micro tasks and macro tasks are often seen as the opposing poles; the former consists of simple tasks such as labelling and filing, while the latter encompasses knowledge-intensive and/or creative projects, ranging from software development to consulting and design. This distinction has important implications for working hours and income opportunities: micro tasks typically offer low wages and are short-term, whereas macro tasks often involve extended projects and higher pay.

Fourth, platform work also varies concerning the degree of digitalisation. While much of platform work is conducted entirely online, there are also platform-mediated activities that take place in specific locations (e.g. delivery or ride-hailing services). Fifth, it is essential to distinguish whether platform work is performed as the primary job and the main source of income, or—empirically evident in all Western countries—whether it acts as moonlighting alongside a primary job¹³. In Germany, for instance, only about 1.5 percent of the working-age population engages in platform work as their main job.

2.1 Work organisation and working conditions

The various sectors of the platform economy outlined above and the different ways in which platform work is utilised by platform workers significantly impact the forms of work organisation and working conditions that can be observed. The conditions under which platform work is conducted are largely determined by the platform enterprises themselves. They dictate who gains access to the platform-orchestrated markets, establish the terms under which market activities take place, and

¹¹ A. Piasna et al., *op. cit.*

¹² F. Hoose, S. Rosenbohm, *op. cit.*

¹³ M. C. Urzì Brancati et al., *op. cit.*

A. Piasna et al., *op. cit.*

implement specific mechanisms for organising, managing, and controlling work on the platform¹⁴.

There exists a variety of mechanisms by which tasks are allocated: while open calls operate on a ‘first come, first served’ basis, competitive mechanisms also exist, with platform workers applying for specific jobs or tasks—often macro tasks in the form of projects. The latter constitutes a ‘winner-takes-all’ mechanism, posing the risk of investing unpaid hours. In many segments of the platform labour markets, digital technologies employed by platform companies play a crucial role in work organisation. Previous research has highlighted the significance of algorithmic management¹⁵, which is used to control the work process¹⁶ and is often combined with various forms of reputation systems¹⁷, leading to information and power asymmetries as well as ‘lock-in effects.’¹⁸

Not only is there diversity among the platforms, their business models, and digital infrastructures, but the platform workers themselves are also heterogeneous. On one hand, there are precarious (pseudo) self-employed individuals undertaking simple, low-paying tasks; on the other hand, highly qualified freelancers are presented with lucrative and complex projects. Piasna et al. (2022) provide further insights into the socio-economic composition of platform workers: they tend to be younger and possess a higher level of formal education than the ‘offline workforce,’ especially in the case of those platform workers who operate as creative freelancers.

What most platform workers have in common is their status as independent contractors or solo self-employed individuals. Despite their structuring roles, (labour) platforms have—except in the case of delivery and ride-hailing platforms that have adopted alternative contractual

¹⁴ S. Kirchner, *Arbeiten in der Plattformökonomie: Grundlagen und Grenzen von „Cloudwork“ und „Gigwork“*, in *Kölner Zeitschrift für Soziologie und Sozialpsychologie*, 2019, vol. 71, 3–25.

¹⁵ N. Koutsimpogiorgos, J. van Slageren, A. M. Herrmann, K. Frenken, *Conceptualizing the Gig Economy and Its Regulatory Problems*, in *Policy & Internet*, 2020, 1–21.

¹⁶ J. Haidar, M. Keune, *Work and Labour Relations in Global Platform Capitalism*, in J. Haidar, M. Keune (eds.), *ILERA Publication series. Work and labour relations in global platform capitalism*, Edward Elgar, ILO, 2021, 1–27.

¹⁷ D. Stark, I. Pais, *Algorithmic Management in the Platform Economy*, in *Sociologica*, 2020, vol. 14, no. 3, 47–72.

¹⁸ U. Dolata, J.-F. Schrape, *Plattform Architectures. The Structuration of Platform Companies on the Internet. Research Contributions to Organizational Sociology and Innovation Studies*, Discussion Paper 2022-01, 2022.

arrangements¹⁹—successfully denied employer status to date. Consequently, approximately nine out of ten tasks in the European Union are carried out under an ‘independent service provision’ model, i.e., (solo) self-employment²⁰. Since the majority of platform workers are not employees, they lack integration into employee-centred labour market and welfare state institutions. In labour law, self-employment is treated differently from dependent employment. As a result, most platform workers do not have access to institutionally anchored collective representation of interests, such as works councils. Their options for utilising trade unions are also limited: while unions can provide advice for the self-employed on platforms and thus attempt to create incentives for union membership, they are formally prohibited from signing collective agreements if platform workers are officially self-employed²¹.

The mostly non-existent employee status also leads to potential risks concerning the social security of platform workers. As self-employed individuals, platform workers are typically not integrated into statutory social insurance schemes. This is particularly true within the employee-centred German welfare regime, where institutionalised social protection is closely linked to formal dependent employment²². The majority of platform workers do not have access to social protection institutions through their platform work. According to Joyce et al.²³ (2019: 172), between 68 and 82 per cent of those platform workers relying on this source of income lack access to social security schemes, except for health insurance. Berg (2016) indicates that 90 per cent of micro-taskers on Amazon Mechanical Turk do not contribute to social security schemes. This low level of social security has been corroborated by other surveys

¹⁹ J. Ewen, *Schluss mit ausgeliefert? Tarifpolitik in der plattformvermittelten Lieferarbeit*, PROKLA, Zeitschrift für Kritische Sozialwissenschaft, 2023, vol. 53, no. 211.

V. Niebler, G. Pirina, M. Secchi, F. Tomassoni, *Towards ‘bogus employment?’ The contradictory outcomes of ride-hailing regulation in Berlin, Lisbon and Paris*, in Cambridge Journal of Regions, Economy and Society, 2023, online first: <https://doi.org/10.1093/cjres/rsad007>.

²⁰ W. P. de Groen, Z. Kilhoffer, L. Westhoff, D. Postica, F. Shamsfakhr, *Digital labour platforms in the EU. Mapping and business models. Final Report*, CEPS, Luxembourg, 2021.

²¹ T. Haipeter, F. Hoose, *Plattformökonomie in Deutschland*, in IAQ-Forschung 04/2023, 2023.

²² F. Beckmann, F. Hoose, *op. cit.*

B. Riedmüller, T. Olk, *Grenzen des Sozialversicherungsstaates*, Leviathan Zeitschrift für Sozialwissenschaft, Westdeutscher Verlag, Opladen, 1994.

²³ S. Joyce, M. Stuart, C. Forde, D. Valizade, *Work and Social Protection in the Platform Economy in Europe*, in *Advances in Industrial and Labor Relations*, 2019, vol. 25, 153-184.

comparing different countries²⁴. In Germany, previous research reveals a similar trend, with protection against unemployment or loss of earnings and old age being particularly precarious²⁵.

The employment status of platform workers also impacts their income. As self-employed, platform workers cannot leverage collective bargaining to secure more reliable incomes or reduce their dependence on individual bargaining power²⁶. Previous research regarding pay indicates significant variability among platform workers. While those performing high-skilled macro tasks can realise substantial earnings—sometimes hourly wages exceeding 100 euros²⁷—click workers often earn only 1 to 5 euros per hour²⁸. Moreover, non-transparent payment models and instances of promised payments being withheld by the platform are also problematic.²⁹ The working hours of platform workers are likewise considered potentially precarious. Although empirical investigations highlight the flexibility of working hours as a primary motivation for engaging in platform work, it is also noted that platform workers report longer working hours than regular employees and tend to work more frequently on weekends and at night³⁰. This phenomenon can largely be attributed to the fact that many platform workers have a primary job and therefore conduct platform work outside their designated working hours. Last but not least, platform work often results in volatile participation in employment and carries the risk of income loss due to absent or poorly compensated tasks. For individuals who undertake platform work

²⁴ International Labor Organization (ILO), *The role of digital labour platforms in transforming the world of work*, ILO, Geneva, 2021.

²⁵ J. M. Leimeister, D. Durward, S. Zogaj, *Crowd Worker in Deutschland. Eine empirische Studie zum Arbeitsumfeld auf externen Crowdsourcing-Plattformen*, Hans-Böckler-Stiftung, Düsseldorf, 2016.

I. Bertschek, J. Ohnemus, S. Viète, *Befragung zum sozioökonomischen Hintergrund und zu den Motiven von Crowdworkern: Endbericht zur Kurzexpertise für das Bundesministerium für Arbeit und Soziales*, Zentrum für Europäische Wirtschaftsforschung GmbH (ZEW), Mannheim, 2016.

²⁶ F. Hoose, T. Haipeter, *op. cit.*

²⁷ L. Hünefeld, S.-C. Meyer, N. Backhaus, *Digitalization of Employment: Working via Online Platforms*, in C. Korunka (ed.), *Flexible Working Practices and Approaches. Psychological and Social Implications*, Springer Internationale Publishing, Cham, 2021, 167-190.

²⁸ C. Freudenberg, W. Schulz-Weidner, I. Wölflé, *Soziale Sicherung von Plattformarbeit im internationalen Vergleich - Gute Praxis und Handlungsoptionen für Deutschland*, in *Zeitschrift Deutsche Rentenversicherung*, 2019, vol. 4, 365-398.

²⁹ P. Stewart, G. Shanahan, M. Smith, *Individualism and Collectivism at Work in an Era of Deindustrialization: Work Narratives of Food Delivery Couriers in the Platform Economy*, in *Frontiers in Sociology*, 2020, vol. 5, 1-14.

³⁰ M. C. Urzì Brancati et al., *op. cit.*

sporadically and those not reliant on this source of income, such risks may not be of significant concern. However, the structural insecurity inherent in the organisation of platform work can pose considerable challenges for those for whom money from the next job is essential for subsistence³¹. Frequently, various risks accumulate and become entrenched over time, as the established institutions that regulate work and provide social protection for workers are lacking in many segments of the platform labour markets.

The working conditions outlined above have led to diagnoses of precarious working environments within the platform economy³². While the effects of the work organisation of platform work have been extensively explored, knowledge regarding the motivations of platform workers is much more limited³³. This raises the question of why individuals expose themselves to this form of short-term and unreliable income in the first place, and how they perceive their working conditions in the platform economy.

2.2 Motivations for working on platforms

The still incomplete state of research on the motivations of platform workers supports the assumption that there exists a wide range of individual motivations and interests for engaging in this type of work, even in the face of sometimes problematic working conditions³⁴. Interests in exciting work content, learning new skills, and the desire for flexible

³¹ J. Meijerink, A. Keegan, T. Bondarouk, *Having their cake and eating it too? Online labor platforms and human resource management as a case of institutional complexity*, in *International Journal of Human Resource Management*, 2021, 4016-4052.

³² T. Montgomery, S. Baglioni, *Defining the gig economy: platform capitalism and the reinvention of precarious work*, in *International Journal of Sociology and Social Policy*, 2021, vol. 41, 1012-1025.

³³ J. Torrent-Sellens, P. Ficapal-Cusí, M. Ertz, *Motivations for Labour Provision on Digital Platforms in Europe: Examining the Differences Between Only Giggers and Giggers and Renters*, in M. Ertz (ed.), *Handbook of research on the platform economy and the evolution of e-commerce*, Hershey, IGI Global Business Science Reference, PA, 2022, p. 93.

³⁴ A. L. Kalleberg, S. Vallas, *Probing precarious work: Theory, research, and politics*, in A. L. Kalleberg, S. P. Vallas (ed.), *Precarious Work: Causes, Characteristics, and Consequences*, Emerald, Bingley, 2018, 1–30.

D. Durward, I. Blohm, J. M. Leimeister, *The Nature of Crowd Work and its Effects on Individuals' Work Perception*, in *Journal of Management Information Systems*, 2020, vol. 37, no. 1, 66–95.

R. Brewer, M. Ringel, A. M. Piper, *"Why would anybody do this?": Older Adults' Understanding of and Experiences with Crowd Work*, in *CHI '16: Proceedings of the 2016 CHI Conference on Human Factors in Computing Systems*, 2016, 2246-2257.

and customisable work are often reasons for consciously accepting the uncertainties associated with platform work. According to Al-Ani and Stumpp³⁵ (2016), labour platforms deliberately rely on a mode of equal participation by platform workers, giving them the impression that they can play a significant role in shaping the work outcomes they produce. In this way, work-mediating platforms emulate the practices of peer-to-peer platforms such as Wikipedia³⁶: Conversely, fewer platforms promise good earning opportunities; particularly if such promises are not realised, they could prove demotivating for the work performance of platform workers³⁷.

Working conditions in the platform economy, especially in sectors where more complex and higher-skilled jobs are performed, exhibit similarities to those found in atypical employment, as discussed elsewhere. This is particularly the case in the creative industries, where working conditions can often be described as precarious and characterised by instability, low pay, and limited working hours³⁸. Nevertheless, workers in these fields remain highly motivated in their employment: they are engaged and feel a strong connection to the content of their work. Creative workers often express satisfaction with their roles due to their intrinsic motivation; they desire to express themselves creatively and are thus willing to accept these working conditions³⁹. Similar ambivalences have been reported in creative platform work: while working as a content creator can be demanding, it also fulfils personal desires for creativity, enjoyment, and self-fulfilment⁴⁰. Since platform work is predominantly undertaken as a part-time job (at least in Europe), working hours have become more flexible and fragmented, resulting in increasingly blurred lines between work and

³⁵ A. Al-Ani, S. Stumpp, *Rebalancing interests and power structures on crowdworking platforms*, in *Internet Policy Review*, 2016, vol. 5, no. 2, 1-19.

³⁶ F. Hoose, P.-F. Kramer, (forthcoming), *Stories About Crowdwork – Analysis of the Self-Representation of Crowdwork Platforms on the Internet*, in *management revue*.

³⁷ D. Durward et al., *op. cit.*

³⁸ A. Manske, *Kapitalistische Geister in der Kultur- und Kreativwirtschaft. Kreative zwischen wirtschaftlichem Zwang und künstlerischem Drang*, transcript, Bielefeld, 2016.

A. McRobbie, *Be Creative: Making a Living in the New Culture Industries*, Polity Press, Cambridge, 2016.

³⁹ H. Abbing, *Why Are Artists Poor? The Exceptional Economy of the Arts*, Amsterdam University Press, Amsterdam, 2008.

A. Manske, *op. cit.*

⁴⁰ B. E. Duffy, E. Wissinger, *Mythologies of Creative Work in the Social Media Age: Fun, Free, and “Just Being Me”*, in *International Journal of Communication*, 2017, vol. 11, 4652-4671.

F. Hoose, S. Rosenbohm, *Self-representation as platform work: Stories about working as social media content creators*, in *Convergence*, 2023, vol. 0, no. 0, 1-17.

leisure time. This flexibility and the heightened scope for self-determination are precisely what make working in the platform economy attractive. Research on the motives behind multiple jobholding indicates that these motivations extend beyond the prospect of additional earnings; other aspects may include "required hours, safety, interest, and task variety."⁴¹

In summary, platform workers exhibit extremely heterogeneous employment constellations and individually varied motivations, interests, and employment-related strategies. Accordingly, the views and needs of platform workers with regard to questions surrounding the regulation of platform work and the collective representation of interests may also differ. How the 'objective' working conditions in the platform economy are reflected in workers' 'subjective' perceptions, how they perceive their work, and what demands they have regarding regulation and representation. We assume that these interests and demands are highly individualised. This raises questions about whether collectively shared interests regarding regulatory measures can be identified in the platform economy and whether there is a desire for collective interest representation and solidarity among platform workers. Before addressing these questions using our own data, we first explore existing research on issues of regulation and representation within the platform economy.

3. Platform Work: De- and Re-institutionalisation

Institutions structure social life and 'programme' social action by conveying certain expectations of behaviour alongside common values and norms⁴². Social institutions also play a significant role in structuring labour markets and defining the conditions of work and employment, providing a fixed point for the subjective orientations of working individuals⁴³. In conservative welfare states such as Germany, institutional regulation of employment—through mechanisms like social insurance schemes and collective bargaining—plays a prominent role in protecting workers against market and social risks, thereby reducing the power asymmetry between capital and labour.

Labour market and welfare state institutions serve an orientating function, determining which forms of work are perceived as 'normal' and outlining

⁴¹ M. H. Doucette, W. D. Bradford, *Dual Job Holding and the Gig Economy: Allocation of Effort across Primary and Gig Jobs*, in *Southern Economic Journal*, 2019, vol. 85, no. 4, 1219

⁴² C. Offe, *Institutionen, Normen, Bürgertugenden*, Springer VS, Wiesbaden, 2019.

⁴³ F. Beckmann, F. Spohr, *Arbeitsmarkt und Arbeitsmarktpolitik. Grundlagen, Wandel, Zukunftsperspektiven*, UVK Verlag, München, 2022.

the requirements for protection against work-related risks. In Germany and other Western countries, standard employment relationships (SER)—defined as permanent, dependent employment embedded within welfare institutions—have long set the empirical and desirable norm for what constitutes work, providing a reference point for atypical forms of employment. ‘Regular’ forms of work are supported by solidarity-based, albeit selective, institutionalised insurance schemes that protect workers from social risks, such as those arising from illness or unemployment. Ultimately, it is the collective organisation and representation of workers’ interests that distinguishes this work-structuring institution. It was only through the association of workers in the form of trade unions, among other organisations, that significant regulatory frameworks concerning work—particularly regarding social security—were established. However, this institutionalised norm has come under pressure⁴⁴. There is now a multitude of new, atypical forms of employment (e.g., marginal employment, solo self-employment) that neither fit the logic of standard work nor can be easily integrated into welfare state and labour market institutions, thus producing greater social risks than standard employment.

3.1 De-Institutionalisation

Platform work can be considered the latest manifestation of a trend towards the de-institutionalisation of labour. Unlike forms of institutional change in which rules are either completely replaced or partially modified⁴⁵, de-institutionalisation is a process in which “rules are being abandoned without being replaced by some alternative institutional pattern”⁴⁶ (original emphasis). As discussed above, in Western countries, the institutions regulating labour and offering social protection developed in the 19th century and were based on ideas about ‘normal’ work in the context of industrial labour. Thus, labour that ought to be regulated was understood as occupational work performed in firms outside the private household, within the framework of dependent employment relationships governed by an employment contract⁴⁷.

Platform work breaks with these conditions. Often, access to the market is low-threshold and hardly regulated by occupational certificates. The presence of physical firms and interaction with colleagues is as rare as the

⁴⁴ R. Dukes, W. Streeck, *op. cit.*

⁴⁵ W. Streeck, K. Thelen, *Beyond continuity: Institutional change in advanced political economies*, Oxford University Press, 2005.

⁴⁶ C. Offe, *op. cit.*, p. 20.

⁴⁷ C. Offe, *op. cit.*

existence of employment contracts. This de-institutionalised work arrangement leads to a shift in regulation to the individual level—a process that Dukes and Streeck (2022) consider prototypical for the development of labour law and regulation since the neoliberal shift in the 1980s. This individualisation of labour regulation exacerbates the power asymmetry between platform enterprises and platform workers—particularly as many platform workers possess limited structural and organisational power⁴⁸. While structural power resources are low since many platform workers are easily replaceable—even highly qualified workers with specific knowledge—the high degree of anonymity resulting from "de-companyisation" impedes collective interest representation⁴⁹.

Previous research has documented how platform enterprises promote de-institutionalisation—both from a functional perspective by utilising self-employment and from a normative perspective by presenting themselves as unconventional labour market actors that innovate rigid employment structures⁵⁰. Consequently, platform work is idealised as autonomous work beyond 'regular' employment and as an opportunity for personal growth and entrepreneurship. At the same time, platform workers are highly heterogeneous⁵¹ with respect to socio-demographics, life phases, (labour market) status, employment patterns, and motivations for engaging in platform work⁵². Not only do opportunities for income generation and actual earnings differ significantly, but platform work also serves various individual functions: for some, it is a sporadic or temporary opportunity to earn (extra) money; for others, it may represent the only chance to participate in paid work, whilst a growing digital avant-garde uses platform work as a primary source of income⁵³. Accordingly, there is considerable diversity of interests among platform workers, accompanied

⁴⁸ P. Lorig, F. Gnisa, *Interessen, Machtressourcen und kollektive Organisation in Crowd- und Gigwork*, in J. Ewen, S. Nies, M. Seeliger (eds.), *Arbeit – Organisation – Politik. Sozialpartnerschaft im digitalisierten Kapitalismus: Hat der institutionalisierte Klassenkompromiss eine Zukunft?*, Beltz Juventa, Weinheim, Munich, 2022, 124-144.

⁴⁹ F. Nullmeier, *The Structural Adaptability of Bismarckian Social Insurance Systems in the Digital Age*, in M. R. Busemeyer, A. Kemmerling, P. Marx, K. van Kersbergen (eds.), *Digitalization and the Welfare State*, Oxford University Press, 2022, 290-303.

⁵⁰ J. Schor, S. Vallas, *The Sharing Economy: Rhetoric and Reality*, in *Annual Review of Sociology*, 2021, vol. 47, no. 1, 369–389, <https://doi.org/10.1146/annurev-soc-082620-031411>.

F. Beckmann and F. Hoose, *op. cit.*

⁵¹ J. Haidar, M. Keune, *op. cit.*

⁵² A. Piasna et al., *op. cit.*

⁵³ M. Dunn, *Making gigs work: digital platforms, job quality and worker motivations*, in *New Technology, Work and Employment*, 2020, vol. 35, no. 2, 232-249.

by differing degrees of willingness to articulate those interests collectively. Nevertheless, empirical investigations into representation and organisational preferences among platform workers remain scarce.

3.2 (Challenges of) Re-Institutionalisation

Due to the potential for precarious working conditions and the considerable power of platform enterprises, platform work has become a focus of social and labour policy debates, particularly concerning (supra-)national collective regulation. In terms of legislative oversight, platform work is currently not well regulated by national policies. However, some nations, such as France, Belgium, and Uruguay, have made early efforts towards transparent information transfer, which provides an important foundation for potential further regulation⁵⁴. Nevertheless, the primary issue remains that national regulations are often ignored or undermined by platforms with foreign headquarters, resulting in a transnational "cat and mouse" game⁵⁵. This has increased the importance of supranational regulatory efforts, primarily those initiated by the European Commission.

A significant milestone has been the proposal for a directive from the European Parliament and the Council aimed at improving working conditions in platform work. This proposal, in its various stages, not only demands more transparency regarding the algorithms used by platforms but also seeks to address the misclassification of platform workers by reclassifying them as workers, thereby granting access to employee-related protections, such as social insurance.

While the efforts made by the European Commission are commendable in terms of detailed content, the political process is lengthy, and the scope remains vague. The proposal itself states: "As a result of actions to address the risk of misclassification, between 1.72 million and 4.1 million people are expected to be reclassified as workers (circa 2.35 million on-location and 1.75 million online, considering the higher estimation figures)"⁵⁶. Given the estimated 28 million platform workers in the European Union at the time of the initial proposal in 2021, this reclassification would affect approximately 6 to 14 per cent of platform workers. This discrepancy arises because many platform workers do not

⁵⁴ C. Freudenberg et al., *op. cit.*

⁵⁵ T. Scholz, *Überworked and underpaid: How workers are disrupting the digital economy*, Polity Press, Cambridge, UK, 2017.

⁵⁶ European Commission, *Commission Staff Working Document. Consultation document. Second phase consultation of social partners under Article 154 TFEU on a possible action addressing the challenges related to working conditions in platform work*, SWD (2021)143 final), 2021, 12.

meet the potential criteria for bogus self-employment. Chesalina points out that many platform workers are not solely dependent on platforms, but on various clients for whom they work. Moreover, the vast majority work for multiple clients; the relationships between clients and platform workers are typically short-term, temporary, and volatile, with many platform workers actively using multiple platforms.

In addition to these activities at the European level, numerous initiatives have emerged, aiming to regulate platform work and enable collective representation of platform workers' interests. In Germany, these initiatives vary significantly concerning the actors involved and the degree of institutionalisation. Four ideal types can be distinguished:

First, some platform enterprises have made self-regulatory efforts. An example is the self-committing Code of Conduct titled "Principles for Paid Crowdsourcing/Crowdworking - Guidelines for Profitable and Fair Cooperation between Crowdsourcing Companies and Crowdworkers," which was signed in October 2017 by the CEOs of several platforms.

Second, there have been protests in certain segments of the platform economy—most notably in the food delivery sector—driven by bottom-up initiatives initiated by platform workers without any support from traditional unions. These efforts sometimes include strikes and collaborations with autonomous left-wing associations.

Third, in the same food delivery sector, successful processes of institutionalisation have occurred on some platforms, particularly Lieferando, where numerous works councils have been established in recent years. While these examples are highlighted as best practices demonstrating that regulation through worker mobilisation is possible, it is important to note that they are exceptional, as 'riders' are employed directly by the platforms, fundamentally differing from the majority of formally self-employed platform workers.

Lastly, there are initiatives exploring new ways to organise platform workers and exert pressure on platforms. One such example is 'Fair Crowd Work', an online platform launched by the German IG Metall union in cooperation with unions from Austria, Sweden, the UK, and the US, aiming to rebalance power by allowing platform workers to rate platforms based on criteria such as transparency, fairness, and working conditions⁵⁷. Another initiative is the 'Youtubers Union', which was established in early 2018 in response to growing dissatisfaction among

⁵⁷ T. Haipeter, F. Hoose, *Interessenvertretung bei Crowd- und Gigwork. Initiativen zur Regulierung von Plattformarbeit in Deutschland*, in IAQ-Report 05/2019, 2019.

Youtuber content creators regarding platform regulations⁵⁸. Since July 2019, this initiative has been supported by the trade union IG Metall, which has jointly launched the 'FairTube' campaign to enhance the transparency and accountability of decisions made by the YouTube platform⁵⁹.

While Fair Crowd Work and FairTube serve as innovative examples of advocacy, their levels of institutionalisation and the presence of binding legal agreements remain low. Nonetheless, they effectively leverage societal power resources to pressure platforms and promote transparency in business and work organisation models.

3.3 Unknowns about the collective dimension

Summarising the previous initiatives, it is clear that the primary strategy for regulation—whether at the EU level or within national industrial relations—is the integration of platform work into the established institutions of labour regulation and interest representation. As discussed, this strategy has seen partial success in segments of platform labour where platform workers are employed directly by the platforms and where physical firms exist. In contrast, in other cases—particularly various online-based crowd work segments—the approaches to regulation are much less institutionalised, with unions attempting either to exert pressure on platform enterprises or to encourage them to cooperate for improved working conditions.

However, previous research has only marginally illuminated the representation demands and perceived working conditions of platform workers engaged in these location-independent, online forms of platform work. This is problematic not only because this group constitutes the majority of platform workers but also because potential interest representation faces greater challenges due to the heightened social, spatial, and organisational disembeddedness of their work. This is where our study comes in.

On one hand, we examine the interests of online platform workers regarding their work: What demands do these workers have concerning

⁵⁸ V. Niebler, 'YouTubers unite': *collective action by YouTube content creators*, in *Transfer: European Review of Labour and Research*, 2020, vol. 26, 223-227.

Hoose & Haipeter 2021: 169.

⁵⁹ IG Metall, *Presseinformation: IG Metall und YouTubers Union vereinbaren Zusammenarbeit: Gemeinschaftsprojekt für faire Arbeitsbedingungen im Bereich Video-Crowdworking*, 2019 (Available: <https://www.igmetall.de/presse/pressemitteilungen/ig-metall-youtubers-union-vereinbaren-zusammenarbeit>).

their activities on platforms, and what challenges do they perceive regarding their working conditions? On the other hand, we investigate whether there are shared demands among platform workers regarding the regulation of their working conditions and, if so, what these demands entail. In other words, do they express a need for regulation, and who should represent their interests accordingly?

While little is known about the representation and regulatory preferences of this group of platform workers, it is likely that such preferences and demands vary across different subgroups of online platform workers. Arguably, like other highly qualified self-employed individuals⁶⁰, professional platform workers with high earnings are likely to favour individual representation and value autonomy and opportunities for self-efficacy. Financial dependency is another plausible factor influencing individual interest formation: as many platform workers utilise platform work as a source of supplementary income, regulatory preferences may be minimal in instances where platform work is executed sporadically or where generated platform income is low. Above all, it remains an open question to what extent platform workers actually perceive their relationship with the platforms as conflictual and, consequently, articulate a necessity for regulation—this perception seems to depend significantly on the interests and strategies that workers pursue through platform work.

4. Methodology and Data

The data presented in this analysis is based firstly on an online survey conducted in December 2022 among platform self-employed individuals living in Germany (n = 719). This survey was part of the research project "Platform Economy and Social Security (PlaSoSi)," funded by the FIS-network of the German Ministry of Labour and Social Affairs (BMAS). For this quantitative survey, an online access panel was used to recruit respondents. According to the broader conception of platform work outlined in Chapter 2, all respondents in our sample have used the internet or an app in the past 12 months to earn money by either (1) renting out an apartment, (2) selling self-made, used, or new products (excluding personal possessions), (3) accepting paid tasks arranged through an online platform, and/or (4) creating original content on social

⁶⁰ B. Apitzsch, C. Ruiner, M. Wilkesmann, *Zur Rolle von neuen und klassischen intermediären Akteuren in den Arbeitswelten hochqualifizierter Solo-Selbständiger*, in *Industrielle Beziehungen*, 2016, vol. 23, no. 4, 477-497.

media platforms. Additionally, respondents were required to indicate whether they performed this work as self-employed, meaning only platform workers who stated they did not have an employment contract with a platform company were included in the sample.

Table 1. Sociodemographic characteristics of respondents in the quantitative sample

Gender	
Female	36 %
Male	64 %
Age	
<20	3.1 %
20 < 30	16.4 %
30 < 40	33.8 %
40 < 50	23.2 %
50 < 60	12.7 %
60 < 70	7.1 %
70 <	3.8 %
Occupational qualification	
No professional qualification	3.5 %
Still in training	5.6 %
Professional qualification	42.6 %
Academic degree	46.9 %
Significance of platform work	
Main job	10.8 %
Side job	32.2 %
Sporadically (neither main nor side job)	57 %

Source: Own calculation and visualization; n=719

Secondly, the data is based on qualitative in-depth interviews with platform workers derived from two different studies. However, since the interviews in both studies covered similar questions regarding the issues of regulation and representation in the platform economy, and the interviewees were active in similar areas of online platform work, we decided to combine the material from both studies to enrich the data for the analysis presented in this paper. One part of the qualitative data stems

from a PhD project⁶¹, in which ten interviews with platform workers were conducted in 2020. For the current study, the focus was on eight of these interviews. The platform workers came from Western European countries (Germany, Austria, Switzerland) with relatively similar structures regarding welfare state institutions and labour regulation. The sample includes⁶² individuals working as (solo) self-employed in various areas of online platform work. The figures indicate the number of interviewees according to their main areas of platform work: Design (4), Freelancing (mainly IT) (2), Clickwork (software testing) (2). Notably, some of the interviewees were engaged in more than one area of platform work. The other part of the qualitative data was obtained as part of the PlaSoSi project. In an ongoing data collection, 18 interviews with self-employed individuals were conducted between March and August 2023. The interviewees are self-employed in four different areas of the platform economy: Content Creation via social media platforms such as YouTube, Twitch, TikTok, etc. (5), Freelancing (mainly IT) (6), Clickwork (particularly software testing) (5), and Domestic Services (2). Unlike the key characteristics of our quantitative sample, a larger proportion of the interviewees in our qualitative sample engage in platform work as their main job or integrate it as a stable part of their individual employment arrangements. This is significant for the further analysis, as a greater number of the platform workers interviewed appear to be more or less dependent on their platform activities, making the issues of regulation and representation raised in our research particularly important.

All interviews were analysed using the method of thematic coding⁶³. The categories of our coding scheme focused on the demands and interests of workers regarding their platform activity and how they perceive their working conditions on one hand (e.g., demand for flexibility, striving for self-determination, concerns about insecure employment conditions) and workers' demands and needs regarding regulation and representation on the other (e.g., demand for social security, need for support from collective actors). The coding scheme was further complemented by categories emerging from our interview material during the coding

⁶¹ P.-F. Kramer, *Mebr als nur ein Zeitvertreib. Arbeitsorientierungen und Erwerbsprojekte von Plattformarbeitenden*, Springer VS, Wiesbaden, 2024.

⁶² Two interviewees from the broader PhD-Sample came from Bulgaria resp. Australia; in order to ensure the comparability, these cases were not included in the current study.

⁶³ C. Hopf, C. Schmidt, *Zum Verhältnis von innerfamiliären sozialen Erfahrungen, Persönlichkeitsentwicklung und politischen Orientierungen: Dokumentation und Erörterung des methodischen Vorgehens in einer Studie zu diesem Thema*, Universität Hildesheim, Hildesheim, 1993.

process. Since we focus on platform workers' subjective perceptions, we will present and discuss excerpts from our qualitative data at various points throughout the presentation of the results⁶⁴.

5. Empirical findings

5.1 Findings (I): Working conditions and employment strategies of platform workers

As discussed in Section 2, the working conditions experienced by platform workers vary notably depending on the segment of the platform economy in which they operate. While there are clear differences, for example, in perceptions of occupational safety between those who work locally (e.g., workers in domestic services) and those who work strictly digitally (e.g., content creators), there appear to be several common denominators in how platform workers perceive their working conditions — regardless of whether they work locally or digitally, or, for that matter, carry out micro-tasks or macro-tasks. One commonality observed in this context is the perception of extensive flexibility within the conditions of platform work. The vast majority of respondents consider it an advantage to work outside regular office hours and to choose the types of tasks they wish to undertake.

Indications of this flexibility can be found in the quantitative data: around 76 per cent of our 719 respondents agree with the statement, “I like that in platform work, I am my own boss,” and approximately 82 per cent agree with the statement, “to me, platform work offers flexible working hours.” Not only is there a perception of high levels of flexibility, but there is also a shared demand for autonomy that is evident among nearly all interviewees. A high-earning IT freelancer, who points out that the majority of IT freelancers are financially secure and therefore do not need to worry about a lack of social security, succinctly describes this demand for flexibility and autonomy as “not ever wanting to run into dependencies” (Freelancer 1, Sample B). It is the independence and potential for self-determination that drive platform workers, as highlighted by one interviewed clickworker. He has made platform work an integral part of his solo self-employment, which spans three pillars across different areas of activity, emphasising the potential for self-determination as a key driver:

⁶⁴ Interview-excerpts coming from the PhD-project are referred to as coming from ‘Study A’; interview-excerpts coming from the ‘PlaSoSi’-project are referred to as coming from ‘Study B’.

“Sure, it’s comfortable [at this point, a standard employment relationship is meant], and in some jobs you would certainly earn more. But that’s not what motivates me. It’s not the salary or the potential to earn money. It’s the variety and the freedom, let’s say, to organise it the way I want.” (Clickworker 1, Sample A)

Thus, the relatively high agreement with the statement of being ‘one’s own boss’ can be interpreted as a largely successful realisation of demands for autonomy within self-employed platform work among our respondents.

However, paradoxically, this demanded and perceived autonomy coexists with a sense of dependency, which interviewees associate with the algorithmic management of the platforms. Interviewees describe ‘the algorithm’ as a “law of nature, which you cannot do anything against” (Content Creator 1, Sample B) and as a “secret of the platform” (Clickworker 2, Sample A)—alluding to the power asymmetry between platform enterprises and platform workers that was discussed earlier in this paper. This situation is particularly serious because algorithms control workers’ access to jobs and customers based on data concerning their previous performance (e.g., number of orders, customer ratings). Consequently, the platforms and the algorithmic forms of control they implement also shape workers’ income prospects. This often results in uncertainties and precarious work situations, as workers feel compelled to accept every job they can get (even if it is poorly paid) to improve their performance—as described by a 22-year-old interviewee who works on a testing platform and aims to earn money while studying, thereby feeling dependent on the (algorithmically supported) rating systems:

“Well, as I said, the job invitations depend on what rating you have. At the beginning, you have the problem that you don’t get invitations because you have a bad rating. But because you don’t receive invitations, you can’t improve your rating. That’s how it is. And to get out of it, it’s advisable to accept every invitation you get and do good work so that your rating improves and you get better projects.” (Clickworker 2, Sample A)

However, uncertainties related to job offers and payments do not only arise from algorithmic management. Most interviewees expressed feelings of uncertainty due to perceptions of high fluctuations in pay. To illustrate this, a case example shall be presented. One interviewee, who began content creation as a side job and, after gaining more attention on social media platforms such as YouTube, Twitch, and TikTok, quit her job as a

product manager in IT to become a full-time content creator, alludes to the uncertainties of the attention economy that she personally experiences:

“And the problem with Twitch is that you are very dependent on how many subscriptions people leave or how much money they donate. You can be super popular for a while, but then many people may unsubscribe and stop donating, which makes it very uncertain to rely on just one source of income, especially when it depends on whether people like you and what the current economy is like? [...] The payments are just very irregular.” (Content Creator 4, Sample B)

The dissatisfaction with the irregularity of pay is not only reflected in the case of this particular content creator but is evident among the vast majority of interviewees. However, the same cannot be said regarding dissatisfaction with the amount of pay received for their platform work. In fact, while overall satisfaction with pay was quite high among interviewees, the group of clickworkers interviewed was a distinct exception, as they reported dissatisfaction with task pay rates, which they perceived as rather low. One interviewee, who works as an engineer and thus earns a relatively high wage in his main job, stated:

“I’m not just going by the money now. I say that honestly. The whole thing is just not worth it for that. [...] If someone is looking for big money, then they are on the wrong platform” [alluding to the testing platform he regularly uses]. (Clickworker 1, Sample B)

This dissatisfaction with pay amount is, in the respondents' perception, somewhat offset by the fact that none of the clickworkers in interview samples A or B undertake their platform tasks as a main job. Only Clickworker 2 from Sample A describes that he temporarily earned a living from platform work; currently, his activities on a testing platform are a side job. Instead, they approach it as an avocation or a side job that provides them with a “nice little extra income” (Clickworker 2, Sample B), as one interviewee expressed, noting that his primary focus is on his medical studies, and he deliberately restricts himself to side jobs that do not detract significantly from his studies. This is also reflected in the quantitative data: only 11 per cent of our respondents engage in platform work as their primary job, while around 32 per cent treat platform work as a regular side job, and 57 per cent undertake it neither as a regular main nor side job, but rather as sporadic work. Additionally, only 16 per cent of those surveyed engage in platform work on a daily basis. Just 17.5 per cent of respondents indicate that they absolutely need earnings from platform

work to make a living, while the vast majority consider income from platform work as either negligible for subsistence or, again, as a welcome supplement to their income from ‘regular’ work. Furthermore, while they may focus their efforts on one platform, clickworkers typically undertake testing tasks on multiple platforms (or at least have created profiles on several platforms).

This strategy of using multiple platforms can also be observed among the other groups of self-employed platform workers we interviewed. While IT freelancers engage with multiple platforms to increase their visibility and broaden their client bases, content creators seek to distribute their content across as many social media platforms and channels as possible to enhance their searchability. The ability for workers to build and expand their client networks through these platforms is regarded as the “best and most important thing” (Designer 1, Sample A), as stated by a worker from a design platform. Thus, by generating more income opportunities and enhancing profile visibility and searchability, the strategy of utilising multiple platforms can be interpreted not only as a means to counteract dependence on one specific platform but also highlights that platform work is more than just an informal side line or a negligible extra income; it is a strategically employed component within a (solo) self-employment model—albeit for a smaller subset of the respondents.

5.2 Findings (II): Interests and demands regarding social security and the regulation of platform work

Against this background of perceived working conditions and employment-related strategies of platform workers, we now focus on needs and demands of platform workers in terms of regulation, social security and the representation of interests. Close to 86 percent of the respondents in our quantitative survey state that they prefer being self-employed over having an employment relationship, i.e., a contract with the platform they work on. With this high proportion of preferred self-employment in mind, it is all the more important to look at just what platform workers deem right and important with regard to the organisation and regulation of their atypical work, which thus far could not be integrated in the established systems and institutional logics of standard employment and co-determination.

First off, our qualitative data shows no clear consensus on whether or not a social security obligation for self-employed platform workers would be a good idea or not. One thought voiced by the respondents is that – while regulation, in principle, is perceived as positive – the introduction of an

obligatory insurance could be deterrent to all actors involved and thus decrease profits both for platforms and platform workers, especially if platforms and/or clients were required to pay the employer's share of social security contributions. In this case, most of the respondents would be rather opposing to this socio-political measure. The quantitative data shows a clearer picture: 88 percent of our respondents think that social security with regard to self-employed platform work should remain voluntary and not become obligatory. Another thought voiced by the respondents goes beyond the feared economic impact of socio-political measures. Part of the respondents are sceptic about regulation overall, as it might restrict individual's freedom. As described before, flexibility and autonomy are two of the key drivers for workers' engagement in (solo) self-employed platform work. This also applies to an interviewed 41-year-old IT freelancer. Before he decided to become self-employed (and henceforth also received jobs via platforms), he worked as a software developer in an agency. He describes that he is glad that he can now choose his customers and projects freely, in contrast to his previous employment. With regard to a stricter regulation and discussions about bogus self-employment in the platform economy he states:

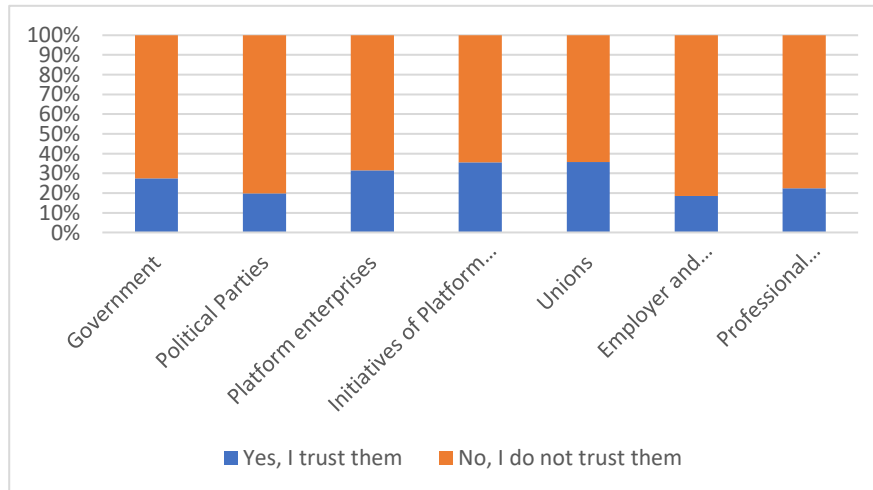
"[...] I kept hearing that this can somehow be negative and that this somehow counts as an employment relationship. So, I always think that's nonsense. [...] Especially in IT and in today's world, this way of working is completely legitimate. [...] somehow you are only allowed to have five sixths of your income from one client [...], if you make more than five sixths of your income through a client, then you are basically employed [...]. I think that's nonsense. So why wouldn't you work for the same client for a whole year if things are going well and the client just has a need?" (Freelancer 1, Sample A)

The comments of a designer who started platform work due to lack of alternative employment opportunities and for whom platform work is now her main job go in a similar direction: She sees future potential in the platform work and the experienced freedom is very important for here. Accordingly, she emphasises that platform work 'should not be regulated too rigidly because otherwise it would no longer work' (Designer 2, Sample A).

Apart from that, our quantitative data shows no unanimous desire for a collective that represents the interests of platform workers: While 40 percent of the respondents support the idea of a collective interest group, almost 35 percent oppose this idea and around 24 percent are indifferent to it. However, in comparison to other actors such as the government or political parties, where trust is relatively very low, platform workers in our

sample seem to have more trust in grassroots initiatives of platform workers and unions to move forward with regard the situation of social security within the platform economy (see Figure 1).

Figure 2. Platform workers' confidence in different actors with regard to moving forward social security in platform work



Source: Own calculation and visualisation; n=719; the corresponding question asked in the survey was as follows: “Which of these actors do you trust to successfully advocate for the social security of platform workers?”

As can be seen here, trust in institutional actors and interest groups of all kind – be it political parties or be it professional associations – is overall rather low, indicating a preference for individual representation. In this regard, these findings can be interpreted as a disenchantment especially with politics, in that the vast majority of respondents deem the government (72,5 percent) and political parties (80,1 percent) especially incapable of successfully advocating for the social security of platform workers. This is expressed against the background of a disillusion with socio-political measures so far, as can be seen in this interview excerpt from a conversation with a clickworker:

“Whatever strategies they [alluding to the federal German government] work out, I can only advise everyone to rely on themselves and expand their range of competencies [...] poor job, that they are doing up there.” (Clickworker 1, Sample B)

Not only politicians but also collective organisations like trade unions and professional associations are seen as actors with limited opportunities to

effectively support platform workers – not least because of their (solo) self-employed status, as an IT freelancer mentions:

“Yeah, I mean, of course there are associations for freelancers etc. But they can’t do anything at all. I mean, a trade union obviously has its right to exist for the employees and it is regulated by law. This does not apply to freelancers.” (Freelancer 1, Sample A)

These disillusionments and the low level of trust in institutional actors and scepticism about the sense and effectiveness of certain socio-political and regulatory measures seems to be due not least to the experiences of workers outside platform work. For some respondents, platform work has become part or even the focus of their employment out of necessity (for example, due to job loss). These experiences of insecurity, precariousness and job loss in a world of work that is actually regulated and institutionally embedded leads to some kind of relativisation of uncertainties and risks in the platform economy – as a designer from one of the biggest platforms for design and creative tasks states. Although she perceives platform work to be unsafe and exploitative, she sees no particular differences in it compared to other labour markets – also ‘regular’ employment would become more and more precarious:

“From my point of view, security in this sense no longer exists. I mean, you can be on the streets in four weeks, you’ll be fired, what are you doing then? [...] The only certainty we have is that it will change. And the only thing you can do is be flexible and open and somehow master it.” (Designer 2, Sample A)

In a way, these statements can be interpreted as a kind of resignation that reinforce an individual loner attitude in the face of adversities of the platform economy. This loner attitude and the afore mentioned low level of trust in institutions of social security and regulation of work are accompanied by the more or less absence of platforms itself as actors who could influence the employment conditions of platform workers in a more positive way.

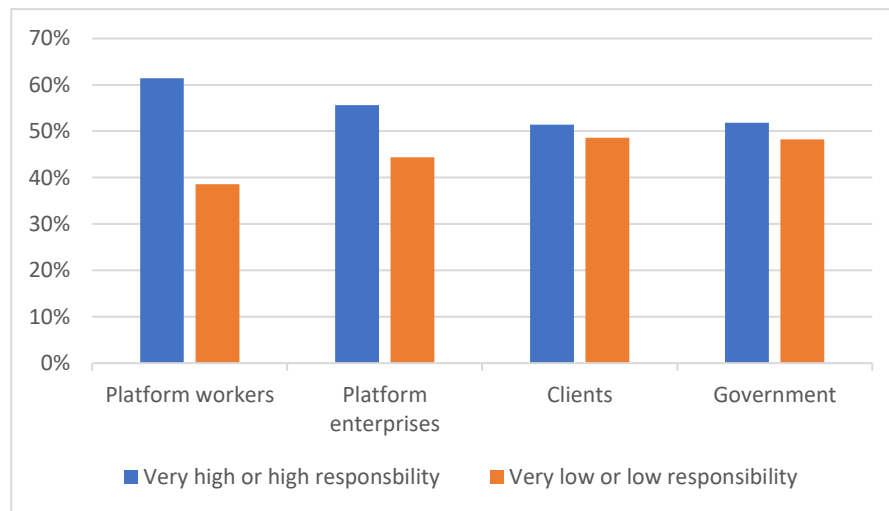
Our respondents see a participation of platform enterprises in the regulation of platform work as a utopian, rather unrealistic event – this is because they do not believe that the platforms will actually engage in regulation attempts themselves as that might go hand in hand with potential losses in power. Interestingly, the vast majority of the respondents do not see the platforms as being responsible for regulation of platform work at all. In their self-perception, they – as self-employed

individuals – should naturally always be responsible for themselves first and foremost or, as an interviewee puts it:

“And I believe that the platform workers have just as much of an obligation as the government. So, you can't clearly say that the legislator has to put a rule in front of this. So, anyone who joins a platform is also making a decision to join it. Perhaps also for lack of alternatives. But I think [...] you can't place the blame unilaterally on the authorities.” (Freelancer 1, Sample B)

Our quantitative data also illustrates this platform workers' tendency towards a “self-responsibilisation”: in comparison to other actors such as the government, platform enterprises or clients, the platform workers attribute responsibility for protection against social risks to themselves the most (see Figure 2).

Figure 3. Responsibilities of different actors with regard to social security according to platform workers



Source: Own calculation and visualisation; n = 719; the corresponding question asked was: “In addition to the platform workers, it is also conceivable that the platform itself, the clients or the government pay contributions for the social security of the platform workers. Who do you personally see as responsible for the social security of platform workers and to what extent?”

6. Conclusion and Discussion

This paper investigated the demands that platform workers in various fields of the platform economy hold with regard to the regulation of platform work and the representation of their interests. The background

of the study presented is the fact that platform work is mainly performed as self-employment and is disembedded spatially and temporally. Hence, established welfare state institutions do not or only marginally offer protection and regulation. This is particularly true for the labour-centred, conservative welfare states that were the focus of our analysis (with special attention to Germany). Although this issue is discussed critically in academics, there are only few empirical investigations dealing explicitly with the representation and regulation of (online) platform workers and taking into account the heterogeneity of platform workers regarding their subjective orientations and individual employment constellations. Against this background, the study presented findings from an online survey amongst 719 platform workers in Germany conducted in December 2022 as well as from qualitative interviews with platform workers (26 interviews in total). In doing so, the study offered insights into platform workers' perceptions of their working conditions as well as their employment-related strategies they pursue with regard to the peculiarities of platform work. The study focused on highly labour-centred welfare states with institutionalised systems of workers' representation and participation, in which discontinuous employment, low wages and working in non-standard forms of employment is implicitly sanctioned. On a more abstract level, our investigations on the mentioned issues allow insights to the question to what extent the traditional institutions of labour regulation have a structuring function also for workers in new, digital fields of employment or whether new normative ideals of work and its regulation emerge.

Our study shows that despite common precarious working conditions and an 'objective' need for regulatory measures in the field of platform economy addressed in previous research, only a minority of the workers investigated strives for collective interest representation while most of them support the idea of self-responsibility. The rather low prevalence of preferences for the collective organisation of the interests of platform workers illustrates that the abstinence of regulation is a major driving force for performing platform work. Previous research has rightfully pointed to the strategies of platform enterprises to undermine established labour market and welfare state institutions and hence individualise social risks⁶⁵. However, our findings suggest that it is also the platform workers themselves who actively force a free riding of social protection and who –

⁶⁵ J. Schor, S. Vallas, 2023, *op. cit.*
F. Beckmann, F. Hoose, *op. cit.*

like other self-employed in the ‘regular’ economy⁶⁶ – seem to prefer individualistic representation. Regardless of legal aspects and discussions about misclassifications and bogus self-employment of platform work⁶⁷, our findings indicate that only a small minority of platform workers prefer to be employed rather than being self-employed. The platform workers in our study ascribe an extensive level of (self-)responsibility to *themselves* with regard to the organisation and social protection within their work in the platform economy. The low level of trust in institutional actors and forms of collective organisation as well as the disillusion expressed by some of the interviewed platform workers with regard to socio-political and regulatory measures are due to their individual desire for (solo) self-employed work. Last but not least, insecurities and disappointments in other, institutionalised employment context lead to some kind of resignation towards institutions of social security and labour regulation as a whole – strengthening the strive for personal responsibility and fuelling the individual self-perception of the platform workers as ‘loners’.

The findings of our investigation show that employment strategies of platform workers and their orientations and self-perceptions regarding the working conditions in the platform economy are highly individualised. Even against the background of these overall rather individualistic preferences, there have been initiatives in which platform workers – with the contribution of established institutional actors such as unions – successfully organised their interests. While these initiatives, such as the Youtubers union, hold a rather low degree of institutionalisation up to this date, their examples show that the accumulation of resources within interest groups can put on pressure on platform enterprises and, in the very least, can make business and work organisation models and algorithmic platform structures (more) transparent for the public. However, these rather scarce examples indicate the specific challenges (within conservative welfare states and its institutions) concerning questions of regulation and representation in new fields of labour like the platform economy. While established institutions of structuring and regulating labour continue to play a role – remember that at least 40 percent of respondents in our quantitative sample support the idea of collective interest representation and, by this, ideas of solidarity-based approaches of labour regulation – the logics and ‘programs’ of such institutions have to reflect the specific dynamics and heterogeneities of the platform economy. Like in other cases (for the so-called ‘new

⁶⁶ B. Apitzsch et al., *op. cit.*

⁶⁷ O. Chesalina, *op. cit.*

economy⁶⁸), institutionalised patterns of regulation and representation have to take into account employment structures that don't follow the idea of 'normal' work as well as the individual orientations and specific demands of the workers. To conclude: in order to counteract tendencies of de-institutionalisation in the platform economy and instead achieve re-institutionalisation, change and stability have to go hand in hand – it is necessary to depart from established ways of regulation and interest representation without losing sight of the fundamental orientation of these institutions, namely ensuring sustainable and fair working conditions.

⁶⁸ J. Abel, L. Pries, *Shifting Patterns of Labor Regulation: Highly Qualified Knowledge Workers in German New Media Companies*, in *Critical Sociology*, 2007, vol. 33, 101-125.

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