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**A szerb és a magyar jog harmonizációja az  
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## **RIGHT TO WORK AND PARTIAL UNEMPLOYMENT BASED ON THE REFLECTION OF THE ECSR ON COVID-19**

**Abstract:** *The COVID-19 pandemic and the responses of States thereto have had a very significant impact on the enjoyment of a wide range of social rights. The impact of the COVID-19 crisis on employment posed a serious challenge in terms of the obligation on states parties to maintain a high and stable level of employment with a view to realising the objective of full employment. Pertinent active labour market measures in the Covid-19 crisis include facilitating flexible working arrangements, notably teleworking and work-sharing, up- and/or re-skilling measures to enhance workforce adaptability, and increased use of digital delivery of employment services. Passive measures that have been widely applied since the outbreak of the pandemic include innovative uses of unemployment benefit systems and other income replacement schemes (furloughs, short-time work, wage subsidies, basic/minimum income provision, etc.). In this article the measures of partial unemployment and the Covid-19 interaction will be discussed.*

**Keywords:** *European Social Charter (ESC), European Committee of Social Rights (ECSR), Covid-19, active labour market policies, partial employment, work sharing, job sharing.*

### **Introduction**

While, increasingly, commitment to upholding human rights standards has been faltering all over the continent for several years, the COVID-19 pandemic has accelerated the erosion of the democratic fabric of European societies, on which protection of human rights ultimately depends.<sup>1</sup> Unfortunately the pandemic has

<sup>1</sup> The impact of COVID-19 on human rights and how to move forward (2020) <https://www.coe.int/en/web/commissioner/-/the-impact-of-covid-19-on-human-rights-and-how-to-move-forward> (05.10.2021.)

magnified all existing inequalities in Europe and has exacerbated many of them. Due to the sudden closure of many workplaces in the field of employment and labour rights the telework (home-based) started to spread in rocket speed. In many cases this change did not based on mutual consent, instead it was ordered unilaterally by employers (some countries it is called: home office).

The COVID-19 pandemic has had a very significant impact on the wide range of social rights. Basically, the European Social Charter (hereinafter: ESC provides a framework for the measures that must be taken by states parties to cope with the pandemic as it unfolds. The treaty also provides a necessary framework for the post-pandemic social and economic recovery as well as for preparation for and responses to possible future crises of this nature.

The independent monitoring body of the European Committee of Social Rights (hereinafter: ECSR) issued a COVID-19 pandemic statement in 2021 with the aims to highlight those ESC rights that are particularly engaged by the COVID-19 crisis. Due to the theme of the last Novi Sad-Szeged Joint Seminar (2021) in this article my intention is to highlight the most important approaches – mainly the right to work – of the ECSR’s Covid-19 statement. As for its target it provides guidance to ESC’s States Parties, organisations of workers and employers, civil society and other key stakeholders by clarifying certain aspects of the ESC rights in question as they apply in the current crisis.<sup>2</sup>

The ECSR took the view that investment in social rights and in their delivery – consistent with the use of maximum available resources – will mitigate the adverse impact of the crisis and accelerate the post-pandemic social and economic recovery. The ECSR recalls its long-standing jurisprudence that the implementation of the ESC requires the State Parties to take not merely legal action but also practical action, making available the necessary resources to give full effect to the rights recognised in the Charter.<sup>3</sup> It also recalls that when the achievement of one of the rights under the ESC is exceptionally complex and particularly expensive to resolve, a State Party must take measures that allow it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources.<sup>4</sup> These requirements are not obviated by the COVID-19 crisis.

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<sup>2</sup> The impact of COVID-19 on human rights and how to move forward (2020) <https://www.coe.int/en/web/commissioner/-/the-impact-of-covid-19-on-human-rights-and-how-to-move-forward> (05.10.2021)

<sup>3</sup> ECSR Decision, *International Association Autism-Europe v. France*, Complaint No.13/2002, decision on the merits of 4 November 2003, §53.

<sup>4</sup> The impact of COVID-19 on human rights and how to move forward (2020) <https://www.coe.int/en/web/commissioner/-/the-impact-of-covid-19-on-human-rights-and-how-to-move-forward> (05.10.2021)

## 1. Right to work of the ESC in pandemia

The first right, protected by the ESC, is the right to work (Art. 1). It belongs to the “hard core” articles of the Charter and is one of the primary principles provided by the constitutional law of the Contracting Parties. The goal of the Charter’s Art.1 is “to ensure the effective exercise of the right to work” and, as a result, the attainment of full employment. (Harris and Darcy defines the term of full employment as “a situation in which unemployment does not exceed the minimum due to seasonable and frictional factors”) (Harris/Darcy, p. 40.) However, it does not automatically mean that state parties of ESC must guarantee a “job for every person who wants one“. This guarantee “is impossible to fulfil for the availability of work”. It depends on the economic climate, the skills, as well as on the capacity of each individual and the situation of the labour market (including the influence of digitalisation and using AI related robots). Recently the right to work itself deals with “various aspects of employment policy”. In the meantime, these aspects include specific undertaking of the full employment, free choice of occupation, free employment services, vocational guidance, training and rehabilitation. The aim of full employment (this is inevitably the center point of the European welfare state model) is gradually and inevitably diminishing in Covid-19 pandemic environment.

### 1.1. Full employment and Covid-19

The impact of the COVID-19 crisis on employment poses a serious challenge in terms of the obligation on states laid down by the ESC in its very first provision on the right to work namely to maintain a high and stable level of employment with a view to realising the objective of full employment.

The ECSR considers that employment policy measures must be key elements of the response to the crisis. Article 1§1 of the ESC requires that states parties apply a mix of “active” and “passive” labour market measures which are conducive to creating and preserving jobs, while adequately assisting in finding and/or qualifying for jobs. It further requires that such measures be adequately funded, notably as a function of unemployment levels.<sup>5</sup>

Pertinent active labour market measures in the current crisis include facilitating flexible working arrangements, notably teleworking and work-sharing, up- and/or re-skilling measures to enhance workforce adaptability, and increased use of digital delivery of employment services. In the shorter term, the ECSR considers it essential that such labour market policy measures be pursued for as long as necessary to maintain a high and stable level of employment.

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<sup>5</sup> See Conclusions 2002, Article 1§1, Italy.

In the longer term, compliance with the ESC obligations relating to the right to work, will require employment creation, including through public employment programmes, public works, hiring subsidies and various support measures for the creation of quality jobs with decent working conditions. Workforce reallocation will be necessary, which will require investment in training for employability (up- and/or re-skilling) and in incentives for geographical mobility. Finally, efficient employment services are crucial to meet increased demand for job mediation, counselling and labour market information, not least where redundancies become inevitable.

## 1.2. Proactive labour market tools: combination of active and passive labour market measures

Passive measures that have been widely applied by states parties to the ESC since the outbreak of the pandemic include innovative uses of full and partial unemployment benefit systems and other income replacement schemes (furloughs,<sup>6</sup> short-time work, work-sharing, employee sharing, *kurzarbeit* (shortened work), wage subsidies, basic/minimum income provision, etc.).

In addition the combination of active and passive labour market policies plus flexible type of employment relationship applied by employers to keep the employees on track was culminated during the Covid-19 pandemics. These three elements is called by me as a coordinated triangle „proactive” employment measures. They have been applied by employers (certain types of flexible work) which complemented by state passive measures to save the employment security of potentially unemployed (employees menaced by losing partly or fully) their employability. This article deals with the partial employment (either traditional or e-work) measures.

## 2. Partial unemployment

### 2.1. Definition of partial unemployment

The definition and first international regulation of partial unemployment – sometimes it is called job retention<sup>7</sup> scheme<sup>8</sup> – basically originated from the ILO

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<sup>6</sup> Phillip Inman (2020) Fears for jobs grow as employers count cost of Sunak’s winter plan, <https://www.theguardian.com/business/2020/sep/26/fears-for-jobs-grow-as-employers-count-cost-of-sunaks-winter-plan> (22.09.2021)

<sup>7</sup> Labour hoarding during the pandemic: Assessing the impact of job retention schemes in Europe

<sup>8</sup> Bernhard Ebbinghaus, Lukas Lehner (2021) Job retention schemes have helped Europe to avoid mass unemployment during the Covid-19 pandemic. <https://blogs.lse.ac.uk/europpblog/2021/06/01/labour-hoarding-during-the-pandemic-assessing-the-impact-of-job-retention-schemes-in-europe/> (11.10.2021)

C-168 (Employment Promotion and Protection against Unemployment Convention, 1988).<sup>9</sup> As a reference point, its Art 10 defines the full unemployment as the loss of earnings due to inability to obtain suitable employment in the case of (a) a person capable of working, (b) available for work and (c) actually seeking work.

According to the same Art 10 partial unemployment is as follows: (a) loss of earnings due to partial unemployment, defined as a temporary reduction in the normal or statutory hours of work; and (b) suspension or reduction of earnings due to a temporary suspension of work, without any break in the employment relationship for reasons of, in particular, an economic, technological, structural or similar nature.

The ILO member states' obligation (which ratified the ILO C-168) to provide the payment of benefits to part-time workers who are actually seeking full-time work. The total of benefits and earnings from their part-time work may be such as to maintain incentives to take up full-time work.<sup>10</sup>

Partial unemployment schemes are one of the key mechanisms to reduce both the degree of sudden economic downturns and their labour market and social impacts. These schemes, which allow employers to flexibly reduce working hours of their employees while the income loss of employees is covered through unemployment insurance, were extended or newly implemented at a massive scale shortly after the onset of the coronavirus crisis. In many cases, they were considered an essential measure to cushion the economic shock resulting from lockdown restrictions.

These partial unemployment/job retention policies were quickly developed after the outbreak of Covid19 in early spring in 2020. Some European countries were able to scale up their established short-time work schemes (e.g. Germany), while others needed to innovate, such as the UK. Although the short-time work schemes used during the previous Great Recession offered a blueprint, the schemes adopted during the pandemic have been larger in scale and spread more widely across Europe.

Partial unemployment benefits are by definition a temporary mechanism. For this reason, all special COVID-19 partial unemployment measures taken at the onset of the crisis were time-limited for a period of around three months which was the expected length of health-related restrictions sufficient to stop the pandemic and return the economy to normal. However, it is now evident that the pandemic continues to impact negatively on the European and even global economy. As many travel and other restrictions remained in place or were reintroduced

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<sup>9</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_INSTRUMENT\\_ID:312313](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312313) (05.10.2021)

<sup>10</sup> ILO Standards and COVID-19 (coronavirus) Key provisions of international labour standards relevant to the evolving COVID-19 outbreak (2020) <https://www.responsiblejewellery.com/wp-content/uploads/ILO-Covid-19.pdf> (05.10.2021)

during 2020 and 2021, governments were facing the question of how to develop partial unemployment benefit schemes in the coming months.<sup>11</sup>

The objective remained to protect employment and the productive capacity of companies while at the same time sustain consumption in view of continued crisis. However, programme costs weigh heavily on governments and social security budgets.<sup>12</sup> In addition, as special COVID-19 partial unemployment measures have been designed to provide rather generous support during a short-term economic shock. The speciality of Covid-19 was that majority of the countries labour market (for both white and blue collar employees as well) were locked down. The Covid-19 created a special type of unemployment: the employment relationship remained intact, but the amount of work and place of work was changed and these situations the partial unemployment came into the picture.

According to my evaluation full-time and part time (partiality) employment/employee might be understood and prescribed in five categories (See table 1): 1. Typical full time employee (in terms of working time his/her work assignment did not change at all) 2. Typical part time employee (his/her working time is reduced, but other conditions remained intact – this is a classical precondition of partial unemployment) 3. Full time teleworkers (the original working time did not decrease at all), 2. Part time teleworkers (working time decreased by couple of hours per day or week – this is also a precondition of partial unemployment) and 3. still active employees on the payroll lost hundred per cent of their possibility to work either in traditional workplace or in telework. One of the fundamental problems of working time reduction is that usually the remuneration will be reduced as well (principle of proportionality). Therefore one of the main targets of partial unemployment schemes is to provide income security and compensate the lost income when an employee has to shift from full time to part time work.

The long-term reliance on such benefits risks creating moral hazard and consequent economic distortions. However, the evolving impact of the Covid-19 crisis is not affecting all sectors in the same way and thus calls for more tailored approaches.<sup>13</sup>

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<sup>11</sup> In Europe, the peak was reached in April 2020 when 10.1 million workers in Germany, 9.1 million workers in France, and almost 1 million workers in Belgium received partial unemployment benefits. In the case of Germany, this represented 22.4 per cent of total employment and compares to a peak of only 3.3 million workers who received such benefits during the financial and economic crisis in 2009.

<sup>12</sup> For instance, the total cost of the partial unemployment programme in France from March to May 2020 alone was estimated at EUR 18.4 billion.

<sup>13</sup> Partial unemployment schemes: Adapting measures in an uncertain context (2020) <https://wvl.issa.int/analysis/partial-unemployment-schemes-adapting-measures-uncertain-context> (22.10.2021)



Table 1. Full and partial unemployment and change in employment relationship

	Employment relationship exists (Yes/No)	Totally lost employment	Partially lost employment	Full employment (intact)	Place of work
1. Typical (full time) employee	Yes	No	No	Yes	Employer's premise
2. Typical (part-time) employee (partial unemployment)	Yes	No	Yes	No	Employer's premise
3. Full time teleworker	Yes	No	No	Yes	Home
4. Part-time teleworker (partial unemployment)	Yes	No	Yes	No	Home
5. Full unemployment	No	Yes	–	No	No workplace

Source: Author's own source.

### 3. Country examples of partial unemployment-like measures during Covid-19

According to my evaluation, in alphabetical order, nine significant European schemes and the US partial unemployment system will be introduced here. Due to the nationality of the author, the Hungarian system will be elaborated a little bit more.

In *Austria*, special COVID-19 partial unemployment measures were introduced for a period of three months after the onset of the pandemic and later extended for an additional three months until September 2020. The decision to extend the programme was accompanied by some simplifications to the scheme, in particular regarding the number of working hours, the calculation of the benefit as well as the possibility to terminate employment in some circumstances. Anticipating prolonged economic difficulties in some sectors, and to establish a longer-term planning horizon for employers, a new temporary partial unemployment scheme started on 1 October 2020 for an additional period of six months. Requiring a minimum and maximum working time of between 30 and 80 per cent of normal hours, the scheme also focused on qualification measures.<sup>14</sup>

<sup>14</sup> René Böheim – Thomas Leoni (2020) Crisis Response Monitoring, Austria; <https://covid-19.iza.org/crisis-monitor/austria/> (15.10.2021)

In *Belgium*, a short-term unemployment scheme existed already before the coronavirus crisis, and benefits were available based on force majeure or economic reasons. After the onset of the crisis, the definition of force majeure, which carries lighter eligibility conditions for benefits, was widened to include all COVID-19 related benefit applications. This widened interpretation ended on 31 August 2020 and employers then had to apply for benefits for economic reasons. However, a special transition scheme applied for certain cases. A similar arrangement to gradually transition from a force majeure to a regular economic difficulty scheme has been put in place in Luxembourg in July 2020, and tailored solutions were being put in place for particularly affected sectors such as the tourism or the event industries.<sup>15</sup>

*France* had also introduced a special short-term work scheme early in the crisis. As part of this scheme, the employer paid 70 per cent of salary, and was then fully reimbursed by the unemployment insurance scheme. As no deductions were payable, this corresponded to a replacement rate of 84 per cent for workers. A transitional arrangement has been put in place towards a longer-term system. From 1 June 2020, the employer paid 70 per cent of the salary, but received only 85 per cent of the amount paid as a reimbursement. From 1 October 2020, the employee received 60 per cent of former salary for a period of a maximum period of six months. The amount paid back to the employer was then also be further reduced to 60 per cent. Special transition arrangements applied to certain sectors such as tourism.<sup>16</sup>

*Germany* has a long history of using short-time work (*Kurzarbeit*)<sup>17</sup> for seasonal labour in construction and for securing industrial jobs during downturns.<sup>18</sup> About 1.1 million or around 5% of workers were in short-time work during the Great Recession. Short-time work benefits were administered by the employment office as part of earnings-related unemployment insurance for labour market insiders. While the established scheme provided 60% of gross earnings (plus 8% for

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<sup>15</sup> COVID-19: temporary unemployment for employees in Belgium (2020); <https://www.propay.be/en/news/covid19-temporary-unemployment-for-employees-in-belgium/> (14.10.2021)

<sup>16</sup> Johanna York (2020) Covid-19: France's partial unemployment scheme extended; <https://www.connexionfrance.com/French-news/French-partial-unemployment-Covid-response-extended> (14.10.2021)

<sup>17</sup> Instead of drawing a full salary, employees will tap a 26 billion euro insurance fund overseen by Germany's Federal Employment Office, which guarantees workers at least 60% of their basic pay or more if companies add their own stipend.

<sup>18</sup> In the company, where it is implemented, the German scheme is governed by employer and works council or trade union (or other workforce) representatives, who police the fairness, correctness and fraud in its implementation. That works because this form of 'micro-corporatism' is deeply embedded in a thick web of long-established mutual agreements, expectations and trust (supported and shaped by vetoes that the workforce can exercise in particular areas of company organisation).

a parent), the benefits were increased during the pandemic (by 10% from the fourth month, and by another 10% from the seventh month onwards), while collective agreements may provide additional benefits.<sup>19</sup>

*Hungary.* Aimed at easing the economic issues caused by the COVID-19 outbreak, the Hungarian Government has announced an economy protection plan<sup>20</sup> to maintain jobs in companies facing difficulties due to the COVID-19 outbreak, if the company undertakes to keep its headcount, even if in reduced working time. The Government decree entered into force in mid-April 2020, and the subsidy was available afterwards. Reduced-time employment subsidy was available at the joint request of the employee and the employer, at the competent government office where the employee was employed.<sup>21</sup> Only one application per employee could be submitted on the standardized form published on the website of the Public Employment Service, electronically, during the so-called emergency situation or within 1 month after the emergency situation ended. The government office was obliged to assess the application within 8 working days and took a decision in the form of a resolution. The basic criteria of the subsidy was that the employer and the employee agree on reduced working time<sup>22</sup> and individual development time<sup>23</sup> beyond the reduced working hours, at least for the duration of the subsidy. As for the amount of state aid: lost working time may be 15-75% of the initial working time. The amount of state aid was 70% of the employee's net base wage<sup>24</sup> due to the period of the lost working time. The Government Decree No. 105/2020 maximized the eligible sum of net base wage in HUF 214,130 (twice the net monthly minimum wage).

The criteria defined by the Government Decree No. 105/2020 had to meet regarding each and every employee concerned by the application. The main criterias were the following: (a) Employing the employee in reduced working time for the duration of state aid; (b) In case the part-time work exceeds 50% of the recent working time, the monthly wage to be paid to the employees must reach

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<sup>19</sup> Edward Taylor, Jan Schwartz (2020) Germany's short-time work fix offers Europe a crisis model <https://www.reuters.com/article/us-health-coronavirus-germany-kurzarbeit-idUSKBN21Q1SY> (11.10.2021)

<sup>20</sup> One of the main pillars of this Action Plan is a state aid for employees for the purpose of retaining workforce set out in Government Decree No. 105/2020 ("State Aid").

<sup>21</sup> New wage subsidy scheme to maintain jobs (2020) <https://www2.deloitte.com/hu/en/pages/tax/articles/new-wage-subsidy-scheme-to-maintain-jobs.html> (15.10.2021)

<sup>22</sup> Reduced working time: according to the employment contract to be amended after the declaration of the so-called emergency situation, part-time work reaching at least 50% of the working time but not exceeding 70% compared to the pre-amendment employment contract calculated in a three months average, corresponding to at least four hours per day.

<sup>23</sup> Individual development time: given the reduced working time, employees shall spend 30% of their working time with development activities related to their position or to the employer's business.

<sup>24</sup> Base wage means the base wage of the employee effective on the day of the application for state aid.

together with the amount of state aid the employee's base wage effective on the day of the application for state aid; (c) In case the part-time work exceeds 50% of the recent working time, the parties might agree on a so-called individual development period and payment of wage for the individual development period; (d) The employer must undertake to retain the employment of the employee applying for state aid for the period of the state aid and for one more month, i.e. altogether for a maximum period of 4 months; (e) No overtime could be ordered during the granting of state aid; (f) Justification that retaining workforce of the employer was the interest of national economy; (g) Justification that the employer satisfied the legal requirements of distinguished labour relations; (h) Justification that the employer was not involved by any final resolution under dissolution proceeding, liquidation proceeding, bankruptcy proceeding or other proceedings specified in legal provisions tended to its wind up, and (i) The employer did not have any payment obligation related to the state aid recovered by the final resolution of public employment service.<sup>25</sup>

The basic government decree was amended by Government Decree No. 141/2020. It has introduced following changes: (a) the employer shall not be obliged to prove that he/she has exhausted all available possibilities of working time schedule; (b) state aid may also be applied in case there was a working time banking in progress; (c) state aid could also be applied for temporary agency workers and for employees working from home office, and (d) the employer was neither obliged to present its economic conditions justifying the employment in reduced working time, nor to prove that was not deemed to be an undertaking in difficulty in accordance with European competition law on 31 December 2019.<sup>26</sup>

*Italy* has an established short-time work scheme (CIG) with benefits for labour market insiders in industry at 80% of gross earnings. Yet, short-time work was extended by Covid-19 schemes for all sectors not yet covered, though the length varied between six to twelve months. Nearly half of all workers received benefits during the early and severe first lockdown in Italy. Meanwhile in France, almost every second worker was covered by 'partial' unemployment benefits (80% of gross wage for up to a year) during the first lockdown.<sup>27</sup>

The *Netherlands* introduced a special COVID-19 partial unemployment scheme in March 2020 for 3 months, and this scheme has been renewed until the

<sup>25</sup> István Horváth – Zoltán Petrovics (2020) [http://www.cielolaboral.com/wp-content/uploads/2020/04/horvath\\_petrovics\\_noticias\\_cielo\\_n4\\_2020.pdf](http://www.cielolaboral.com/wp-content/uploads/2020/04/horvath_petrovics_noticias_cielo_n4_2020.pdf) (12.10.2021)

<sup>26</sup> Edina Czeglédy – Zoltán Nádasdy (2020) Hungary: State Aid for employment in reduced working time – Summary of the modified rules; <https://www.noerr.com/en/newsroom/news/hungary-state-aid-for-employment-in-reduced-working-time---summary-of-the-modified-rules> (12.10.2021)

<sup>27</sup> Bernhard Ebbinghaus, Lukas Lehner (2021) Job retention schemes have helped Europe to avoid mass unemployment during the Covid-19 pandemic. <https://blogs.lse.ac.uk/europpblog/2021/06/01/labour-hoarding-during-the-pandemic-assessing-the-impact-of-job-retention-schemes-in-europe/> (11.10.2021)

end of September in the same year. Together with the renewal, new conditions were introduced, including the non-distribution of dividends and the creation of training offers for employees. Dismissals were allowed but led to a reduction in the reimbursement rate paid to employers.<sup>28</sup>

In *Switzerland*, the regulations of the pre-existing system was applied from 1 October 2020, but some transition measures are foreseen until the end of 2021, including the reduction in the waiting period for benefits and the extension of the maximum payment period from 12 to 18 months.<sup>29</sup>

The United Kingdom adopted a new Coronavirus Job Retention Scheme (CJRS), which was created by the Treasury on 15 April 2020. The scheme was intended to end in October 2020, yet following a further wave of infections, it was hastily extended until March 2021. Breaking with its liberal credo, the CJRS is an earnings-related benefit of 80% for up to four months, thus going beyond the UK's flat-rate unemployment assistance and the recent reform of Universal Credit.<sup>30</sup>

Not all European countries followed the above described models. Several Nordic welfare states relied on their automatic stabilisers, while the Baltic countries and some eastern European countries were reluctant to provide costly short-time work provisions, particularly in those countries that did not implement severe lockdown measures.<sup>31</sup>

*United States.* As for curiosity the short- time compensation (STC) in US (sometimes called work sharing) should be mentioned. It is a program within the federal-state unemployment compensation (UC) system. It provides pro-rated unemployment benefits to workers whose hours have been reduced in lieu of a layoff. STC may be helpful to a firm and its workers during an economic downturn or other periods when employers determine that a temporary reduction in work hours is necessary. The STC program has never reached many workers. As will be discussed below, approximately half of states have enacted STC legislation and, within these states, few firms and workers have participated. The reasons for this seem to be a combination of difficulty the U.S. Department of Labor (U.S. DOL) has had in implementing the 1992 authorizing legislation, lack of awareness on the part of employers, unsuitability of work sharing arrangements for some firms or workers, and costs of the program. Congress passed legislation in February 2012, P.L. 112-96, which provided clarification to the definition of STC and also

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<sup>28</sup> Egbert Jongen – Paul Verstraten (2020) Crisis Response Monitoring, Netherlands; <https://covid-19.iza.org/crisis-monitor/netherlands/> (15.10.2021)

<sup>29</sup> Patrick Arni (2020) Crisis Response Monitoring, Switzerland; <https://covid-19.iza.org/crisis-monitor/switzerland/> (15.10.2021)

<sup>30</sup> <https://www.ft.com/content/867c45e4-10ac-4121-9f68-e3e55406e350>

<sup>31</sup> Bernhard Ebbinghaus, Lukas Lehner (2021) Job retention schemes have helped Europe to avoid mass unemployment during the Covid-19 pandemic. <https://blogs.lse.ac.uk/europpblog/2021/06/01/labour-hoarding-during-the-pandemic-assessing-the-impact-of-job-retention-schemes-in-europe/> (11.10.2021)

provided incentives to states to adopt and modify STC programs. Despite these changes, the proportion of UC claimants participating in STC remains low.<sup>32</sup>

## Conclusion

In sum, partial unemployment schemes in Europe have been one of the most effective intervention mechanisms to maintain employment and the productive capacity of the economy, protect income levels and support companies during the coronavirus crisis. Far-reaching and generous schemes were put in place in many countries soon after the onset of the crisis in March and April in 2020, and aimed in particular at absorbing the economic shock caused by lockdown restrictions.

Faced with prolonged economic difficulties and continuously sluggish demand affecting a number of sectors, countries were faced with the issue of how to adapt partial unemployment arrangements to appropriately support employers and workers, reduce expenditures and align schemes to the evolving economic situation without creating undue dependencies. In most countries that had put in place special COVID-19 measures in March and April 2020, these arrangements ended in August or September 2020 and reopened in 2021. At the same time, a number of transition measures have been put in place, including for the most affected sectors, and countries without pre-existing schemes are considering new longer-term solutions.<sup>33</sup>

Supporters of job retention schemes, including ECSR as well, emphasise the importance of preventing scarring effects from unemployment following mass dismissals. They also argue that labour hoarding allows for a quicker recovery as workers remain in employment relationships. Faster economic growth would also help pay back public debt. Moreover, short-time work includes an important equity aspect as it spreads the costs of working time adjustment more evenly compared to layoffs concentrated on some (often vulnerable) groups of workers.<sup>34</sup>

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<sup>32</sup> Julie M. Whittaker (2016) Compensated Work Sharing Arrangements (Short-Time Compensation) as an Alternative to Layoffs, <https://sgp.fas.org/crs/misc/R40689.pdf> (10.09.2021)

<sup>33</sup> Partial unemployment schemes: Adapting measures in an uncertain context (2020) <https://ww1.issa.int/analysis/partial-unemployment-schemes-adapting-measures-uncertain-context> (access: 11.10.2021)

<sup>34</sup> Bernhard Ebbinghaus, Lukas Lehner (2021) Job retention schemes have helped Europe to avoid mass unemployment during the Covid-19 pandemic. <https://blogs.lse.ac.uk/europpblog/2021/06/01/labour-hoarding-during-the-pandemic-assessing-the-impact-of-job-retention-schemes-in-europe/> (11.10.2021)

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## **A munkához való jog és a részleges munkanélküliség az ECSR Covid-19 állásfoglalása tükrében**

**Absztrakt:** Az államok által a COVID-19 pandémiára adott válaszok sok esetben jelentős mértékben befolyásolják az emberi (szociális) jogok érvényesülését. A COVID-19 pandémia a munkaerőpiacot is érzékenyen érintette és az államok számára – a teljes foglalkoztatás elvi céljának szem előtt tartásával – jelentős kihívássá vált a foglalkoztatás minél magasabb szintű és stabil fenntartása. A COVID-19 krízis alatt a megfelelő aktív munkaerőpiaci eszközök működtetése, beleértve a rugalmas foglalkoztatást (mint például a távmunka, munkakör megosztás, a munkaerő alkalmazkodóképességét növelő átképzések, digitalizációs készségek növelése) nem egyszerű feladat az államok számára. A pandémia kitörésével és terjedésével párhuzamosan a munkaerőpiaci passzív eszközök – mint például a munkanélküli ellátások, illetve egyéb jövedelemfelváltó jogintézmények (pl. fizetett szabadságok, részmunkaidős alkalmazás, bérkiegészítések, garantált alapjövedelem, stb. – is széles körben alkalmazásra kerültek. A tanulmány fő célja a COVID-19 pandémia és a részleges munkanélküliség egymásra hatásának a bemutatása.

**Kulcsszavak:** Európai Szociális Karta, Szociális Jogok Európai Bizottsága, COVID-19, aktív munkaerőpiaci eszközök, részleges munkanélküliség, több munkáltató által létesített munkaviszony, munkakör megosztás.

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## Право на рад и делимична незапосленост у условима пандемије вируса COVID-19 кроз призму ставова Европског комитета за социјална права

**Сажетак:** Реакције држава на пандемију вируса COVID-19 имале су веома значајан утицај на остваривање широкој спектра социјалних права. Криза изазвана пандемијом оставила је значајне последице на запошљавање и ставила је државе пред нимало лак изазов у смислу обавезе држава чланица Савета Европе да одржавају висок и стабилан ниво запошљености у вези са остваривањем циља јуне запошљености, сходно Европској социјалној повељи. Мере које су државе предузимале како би ојачале активност на тржишту рада услед кризе изазване пандемијом вируса COVID-19 укључују промоцију флексибилних облика рада, нарочито рада на даљину и дељење посла, као и мере доквалификације или преквалификације у циљу побољшања прилагодљивости радника новонасталим приликама. Пасивне мере које су се широко примењивале од избијања пандемије укључују иновативну употребу система накнаде за незапослене и других облика замене прихода (услед различитих одсуства, скраћено радно време, субвенције за зараде, обезбеђење минималне зараде итд.).

**Кључне речи:** Европска социјална повеља, Европски комитет за социјална права, Covid-19, мере активне политике запошљавања, делимична незапосленост, дељење посла.