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IN-WORK POVERTY: A MULTI-LAYERED PROBLEM ACROSS EUROPEAN UNION COUNTRIES

Abstract

The article's primary purpose is to present an understanding of in-work poverty by defining the mentioned phenomenon uniformly in all European Union countries and by demonstrating its main determinants. First of all, it is necessary to present a complex definition of the term in-work poverty and refer it to the concept of precarious work functioning in both the legal circuit and the literature. The analysis starts by presenting the existing indicators and measurements of this phenomenon as a basis for conclusions on legal, economic, and social conditions of in-work poverty. The critical role in this regard is attributed to labour law and social security regulations and their continuous changes caused by adapting to new forms of organizations of work and to expectations coming from market competition. The broad range of analyses of phenomena in the work-poverty results from studies delivered under a project of the same name "Working Yet Poor." The project aims to examine the regulatory structures affecting the working conditions and to assess different aspects of regulations that can have a direct and indirect impact on the occurrence of this phenomenon.

Słowa kluczowe: biedni pracujący, polityka społeczna Unii Europejskiej, prawo Unii Europejskiej, Europejski filar praw socjalnych, polityka krajowa przeciwdziałania wykluczeniu społecznemu

Keywords: working poor / in-work poverty, European Union social policy, European Union law, European Pillar of Social Rights, national policy of counteracting social exclusion

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Process of deprivation of the working class across European countries

This article is assuming a national, and to some extent, an international view on in-work poverty due to the fact that deprivation of the working class has become a pretty common phenomenon across European countries. Even in democracies assessed as rich and developed, the percentage of poor workers is surprisingly high. A good example is the United Kingdom,

where in the years 2019/2020 the working poor-adults reached 12% of the total working population (Joseph Rowntree Foundation 2022). This percentage of working-age adults in the Working Families being in poverty is at its highest since its recordation. However, the shown case cannot formulate general causes of this phenomenon and indicate that the term—the working poor—is only found in the so-called “liberal” economies characterised by the absence of a strongly organised labour market and adequate regulatory correction that protects employed persons. In fact, the in-work poor also exist in EU countries with prosperous economies and developed institutions of labour laws (Hick, Marx 2022), as is presented in Luxemburg where the percentage of the in-work poor is at 13.8% (Eurostat 2018). This number is surprisingly higher as in the neo-liberal United Kingdom.

The phenomenon of the in-work poor affects even more countries that have recently entered the path of economic development by freeing the market and strengthening economic freedoms. An example is Poland, where particular groups experience low than the required standard of living despite having paid work. It is estimated that in 2019 the number of people at risk of poverty or social exclusion (AROPE rate) was 6.691 million, which accounted for 15.2% of the entire population in Poland. Against this background, the in-work poverty (AROP rate) slightly decreased to currently (in 2020), amount to 9% of the total number of workers (Eurostat 2020). Interestingly, the mentioned indicator stands in the European low than average (9.9%), and is not higher than it could be expected to assume for the transforming economies. Not in all cases of EU countries in the process of economic transformation was such a positive result achieved. Look at Romania where the rate of people in work at risk of poverty still is the highest in the European Union, amounting to 15.3% (Eurostat 2018). This result partly explains quite a different development of the economic level between countries. Thus, in Luxembourg, the in-work poverty line is set at less than €2,000 per month, while exactly the same amount of income in Poland is estimated as average or even a good standard of living in Romania.

Surprisingly, being employed is not always a sufficient factor to provide a decent livelihood for workers and their families in today’s European labour market. In many Member States, statistical indicators of in-work poverty showed increasing tendencies even before the economic crisis at the beginning of 2020 caused by the Covid-19 pandemic (Peña-Casas R. et al. 2019, p. 7). Over the last decade, which European Statistical Office (Eurostat) data confirms, the share of employed persons at risk of poverty has risen in a majority of Member States. The highest increase was recorded in Luxembourg (4.1%), followed by Italy (3.2%), the United Kingdom (2.8%), Hungary (2.6%) and Bulgaria (2.4%), while the highest decreases were observed in Greece (–3.3%), Latvia and Romania (both –2.4%), Portugal (–2.1%) and Finland (–2.0%) (Eurostat 2018).

The concept of in-work poverty

The concept of in-work poverty has not been defined in any legal document yet. The poverty of the working class (the employed) is considered in various ways, namely in

sociological or lawful contexts, when the forms of precarious work are analysed. Most often, in-work poverty is presented with statistical data based on specific methods of measuring poverty.

The term under discussion composed of two dimensions: “work” and “poverty,” both of which are necessary to consider the employed as “working-poor.” The first element concerns work; therefore, the definition covers people in the labour market, regardless of the form/basis of employment. Consistently, the description includes workers, contractors and even the self-employed who are subordinated to the client in the same way as workers do. The second element of the definition clearly implies insufficient means of subsistence not guaranteed by the work performed.

According to the Eurostat-Glossary indicators, the following persons are included in the category of working poor:

- they have worked for at least seven months a year or have had employment status for more than 6 months in the period referred to in the income information,
- they have households, the total income of which, upon payment of taxes and other public levies, is below 60% of the median value of disposable household income (the total income of all household members divided among them upon consideration of the number and structure thereof).

When it comes to the comparative analysis of the subject matter of in-work poverty in the territory of the EU and Poland, it indicates significant differences in the scope of adopted indicators. In its analyses concerning in-work poverty, the Public Opinion Research Centre (Centrum Badania Opinii Społecznej, CBOS) in Poland is based on the definition of Eurostat but does not specify the minimal period of performing work. Moreover, the Statistics Poland (Główny Urząd Statystyczny, GUS), whose analyses provide knowledge on the scope of in-work poverty in Poland (research on household budgets), applies the expense-based approach stipulating the poverty threshold at the level of 50% of average expenses of equivalent households (Wójcik-Żołądek 2013, pp. 159–178).

Data published by GUS in 2020 on the average median in Poland does not fully reflect the actual remuneration obtained by the employee. It results from certain methodological assumptions of collecting statistical data. First of all, data covers only employers who employ more than 9 employees. It means that the scope of analyses does not cover micro-enterprises, in which the remuneration is, as a rule, lower than at employers who employ over 10 employees. Secondly, data on average remunerations does not include persons who work in non-employee forms, i.e. on the grounds of a mandate contract, a contract for a specific task or self-employment constituting approximately 14–16% of the total number of workers.

The lack of uniform methods of assessment measuring poverty among economically active people translates into difficulties in assessing the scale of this phenomenon and taking appropriate measures to counteract the future expansion of the working class, the resources of which are not sufficient to ensure a decent life.

Target of European Union policies

One of the constant priorities of the European Union is an active policy of counteracting social exclusion and fair and equal access to the labour market and guaranteeing a wide range of social rights. However, the tasks and methods of achieving this goal make each period different in providing policy at the European level. In earlier European strategies, especially the Lisbon Strategy adopted by European Council at the meeting of 23 and 24 March 2000 in Lisbon and the Europe 2020 strategy (COM(2010) 2020), social policy goals were based on full and productive employment. At the root of this assumption lies the thought that work is the most effective instrument to achieve social and economic benefits. In this way, the emphasis was placed on creating jobs with a focus on their quantity and not on quality. The catchphrase “flexicurity,” modern at that time, best reflects the significant tendency toward liberalising the labour market and its flexibilization. Employment was perceived as “the best protection against poverty,” and this argument became the basis for the assumptions both European and national policies¹. This erroneous assumption was quickly verified by the market. Undoubtedly, labour force participation increased thanks to the new forms of employment, but at the same time, poverty stayed at the same level (Horemans 2017).

Two decades of applying such an approach to the labour market did not bring the expected results. Instead of consolidation of the market, flexicurity has brought further segmentation of the labour market into the employed whose work performance was more protected than the work performance of the others. The European Pillar of Social Rights, adopted by all EU governments on 17 November 2017 at the Social Summit for Fair Jobs and Growth in Gothenburg, was expected to bring on a reversal of the flexicurity trend. It is a noticeable proof of the adjusted European policy assumptions.² Considering the European Pillar of Social Rights’s legal nature, the principles do not form directly binding legal effects. What it does is create obligations towards the European Union and the Member States to pursue an active policy and take measures to implement the principles articulated through the so-called horizontal clause provided for in Art. 9 and Art. 151 of the Treaty on the Functioning of the European Union (consolidated version, OJ C 2012, No. 326, pp. 47–390, hereinafter referred to as: “TFUE”). Such legal nature of the European Pillar of Social Rights confirms adopted Action Plans that implement individual principles and compose an indication of the undertaking of specific tasks and the time of their implementation. Therefore, the European Pillar of Social Rights is a guideline of supranational policy. Still, it can also provide an interpretative indication for specific legal acts that implement their principles binding European Union and

¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions—Towards Common Principles of Flexicurity: More and better jobs through flexibility and security, SEC(2007)861.

² In developing this document, the European Commission actively cooperated with all partners from all the Member States to reflect the most important European and national social rights (Commission Staff working document of 26 April 2017: Report of the public consultation accompanying the document *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions*, establishing a European Pillar Of Social Rights, SWD(2017)206 final).

its Members (opinion of the European Economic and Social Committee on “The European Pillar of Social Rights—Assessment of the Initial Implementation and Recommendations for the Future,” OJ C 2020, No 14, pp. 1–37), an example of which can be the Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union (OJ L 2019/186, pp. 105–121), which refers in its recitals 2 and 7 directly to the principles formulated in the European Pillar of Social Rights.

Core social rights derive from equal opportunities and an access to the labour market; among which, you can find the right to decent work. Flexicurity did not prove a pragmatic model for the realisation of a coherent and conscious plan for organising the socio-economic sphere. Forthcoming revision of the flexicurity concept hinges on strengthening the hard core of social rights that will guarantee decent working conditions. The Principle 6 of the European Pillar of Social Rights stipulates that:

Workers have the right to fair wages that provide for a decent standard of living. Adequate minimum wages shall be ensured, in a way that provides for the satisfaction of the needs of the worker and his/her family in the light of national economic and social conditions, whilst safeguarding access to employment and incentives to seek work.

Offered jobs are not sufficient since many of new employment forms do in fact appear to be very insecure, with low earnings and, for a variety of reasons, with very limited social security rights (Horemans 2017). In 2021, European Parliament resolution of 10 February 2021 on reducing inequalities with a special focus on in-work poverty (2019/2188(INI)) confirmed that 9.4% of workers, in the year 2017, suffered poverty despite remaining in the labour market and performing a job.³

The approaches presented in the European Pillar of Social Rights are based on the greater coherence of policies and the inclusion of other ones that favour employment. Moreover, the prime purpose is to create instruments that counteract segmentation of the labour market and facilitate the introduction of the minimum wage rate, and to make an assumption that the concept of decent wages relates to family maintenance. What definitely distinguishes this moment in the design of labour mechanisms in countering the in-work poverty phenomenon is the creation of legal instruments which are resistant to globalisation processes and immune to more frequent and more severe economic crises.

In-work poverty in the light of theoretical and empirical research in Poland

In-work poverty has been relatively recently subjected to theoretical and empirical research in the area of the labour market and employment policy in Poland (Tomaszewska, Peplińska 2022).

³ This percentage was 9.4% in years 2017 and 2018, to slightly decrease down to 9% in 2019, although the data for this last year are still an estimation, http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=ilc_li02.

Due to that, despite increasing authors' interest in the subject matter of in-work poverty, a consensus is missing regarding the definition and depiction thereof. The lack of coherence in perceiving and classifying the employed into the in-work poverty category causes many issues in international comparative analyses. The literature on the subject matter mentions at least four definitions of the working poor categories, which classify professional activity of working persons differently and refer to the issue of a working poor's household (Wójcik-Żołądek 2013).

When it comes to the national doctrine of labour law, its analysis has so far focused on an essential aspect of in-work poverty. Namely, they relate to the reasons for the emergence of employment grounds competitive to the employment relationship in Poland called "non-standard," "atypical," "flexible," or "precarious" employment. At the same time, the doctrine undertakes the above studies in the context of historical changes that distinguish parts of Central and Eastern Europe (Seweryński 1999). Consequently, at the beginning of transformation, atypicality was understood as any deviation from the basic employment model, i.e., the full-time employment and the employment for indefinite period. However, after the employment relationship began to be subjected to the process of flexibility in the early 1990s, atypical employment began to be interpreted a bit differently. Most commonly, atypical work is interpreted as non-employee employment in shapes similar to those in which employees provide their work.

The adoption of "non-standard," "atypical," "flexible," or "precarious" employment is also recognised by Polish doctrine in the broad context of unification processes related to membership in the European Union (Tomaszewska 2004; Mitrus 2006) or/and economic processes related to universal globalisation, as well as in all-embracing global crises (Pisarczyk, Torbus 2019, pp. 133–154). The delivered approach reflects the specific understanding of those terms in Polish doctrine. What is considered a deviation and atypical employment—as pointed out in literature—relates to particular country-specific circumstances and carries an inherent socio-political interpretation (Horemans 2017).

Atypical employment has also become the subject-matter of analysis, provided by the GUS, presenting the huge scale of non-standard employment and its diversification. What is vital, a specific concept adopted by GUS in conducting its surveys is also consistent with the theories of most representative Polish labour law doctrine (Dral 2009; Musiała 2011; Stelina 2020, pp. 62–72). Both, the Labour Force Survey (basic survey) and a module survey on the workforce conducted in 2016 by the GUS focused on employment in atypical forms. For statistical analyses, non-typical forms of employment are considered as other forms of working than under an employment contract in light of the Labour Code Act of 26 June 1974 (Dz.U. 2020, item 1320 consolidated text, as amended) regulations. As a result, the study covered all types of civil law contracts regulated by the Civil Code Act of 23 April 1964 (Dz.U. 2020, item 1740 consolidated text, as amended), i.e. mandate contracts, contracts for specific work, managerial contracts and other civil law contracts, the so-called innominate contracts. Moreover, those surveys embraced the self-employment as another form of the atypical working—what means in the Polish legal system a person running their own business. For comparison reasons across European counties, statisticians assumed that the mode of work performance in atypical forms was similar to that of hired labour. A characteristic feature

in all atypical employment forms defined this way is the personal performance of work by the contractor, usually in favour of a single client, or when the dominant part of the activity performed is for the benefit of a single entity.

Those surveys focused **solely on this group who reported pursuing their main job in an atypical form**. Vast majority of the atypically employed (80.2%) **worked in this form not by their own choice**. However, 80% of respondents were satisfied with their choice, primarily in the form of self-employment. The level of satisfaction with the option of self-employment does not convert into no poverty risk. The self-employed, in general, face significantly higher income poverty risks (in-work poverty is more than five times higher) than employees (Eurostat 2019). In 2017, it was at its highest point over the period analysed, at 28.5%. The in-work-poverty rate for self-employed people in Poland remained above the EU level (Topińska, Chłoń-Domińczak 2019, p. 5). However, this level is strongly disturbed by the inclusion of employed farmers. It is the agriculture that dominates the study of the self-employment sector.

Very symptomatic here may be the fact that income poverty levels are quite significant among the self-employed while material deprivation rates are generally much lower than among employees. Moreover, the discrepancy between income poverty measures and material deprivation measures is much more pivotal for the self-employed than it is for employees (Horemans, Marx 2017, p. 1). Labour market researchers stress one possible explanation is that the self-employed can more often draw on assets accumulated over the life cycle or on business assets they control.

All the above symptoms of in-work poverty areas require a coordinated policy that includes income from paid work and social benefits, fair distribution of market incomes and support for households that really need it (McKnight et al. 2016). In 2011, as part of the implementation of the EU 2020 Strategy (COM(2010) 2020), the Polish Government assumed that by 2020, the number of Poles living in poverty would be 1.5 million fewer⁴. In the EU as a whole, this was to be 20 million fewer people. The plan turned out to be quite realistic since, between 2019 and 2020, there was a decrease in the working poor to 9%. However, this goal was achieved not only through an increase in the national average and minimum wage but mainly through social programs supporting families with dependent minor children. This conclusion is confirmed, for example, by the fact that the increase in the working poor transpired precisely in one-person households, to which no social programs are dedicated (EAPN Poland 2020).

Summary

As available analyses present, the phenomenon of in-work poverty encompasses many spheres of law and policy simultaneously (Tomaszewska, Peplińska 2022). Most common study is driven by a mixture of factors, such as low earnings, low work intensity of work and unpredictability of working time or lack of stability of employment. An impact on the indicator

⁴ Krajowy program przeciwdziałania ubóstwu i wykluczeniu społecznemu – aktualizacja 2021–2027. Polityka publiczna z perspektywą do roku 2030, M.P. 2021, item. 843.

of the in-work poor is related not only to the purpose of employment policy but also to how tax-benefit systems work (or not work) to redistribute market incomes and support households in need of social assistance (McKnight et al. 2016, pp. 3–4). The factors are broken down into different levels of decisions, going from the nationally determined to individual choices. The factors from the national level are shaped by the economy, the functioning of the welfare state, the balance of power and influence; at the bottom level—are impacted by choices made by individuals and families.

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