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ПЕРЕДУМОВИ НЕСТАНДАРТНОЇ ЗАЙНЯТОСТІ В ЄС ТА УКРАЇНІ: ПОРІВНЯЛЬНИЙ АНАЛІЗ

**Міхаель Шефер
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У статті розкриті особливості нестандартної зайнятості в ЄС і Україні. Проведено порівняльний аналіз нестандартних форм зайнятості в ЄС і Україні. Було доведено, що роботодавці в країнах, що розвиваються і розвинених країнах повинні скорочувати використання стандартизованої зайнятості, пов'язаної з високими витратами на податки і соціальне забезпечення, і вважають за краще використання нестандартних працівників, найнятих на умовах тимчасових контрактів, використання яких не тягне значних фінансових витрат.

В Україні найбільш розвинутою є позикова праця, в якій робітник, найнятий одним роботодавцем, передається в розпорядження іншого. У тимчасових умовах в рамках позикової праці виділяють аутсорсинг, лізинг персоналу і аутстафінг.

В ЄС форми зайнятості диференційовані в залежності від того, чи відносяться вони до співробітників або до індивідуальних підприємців і фрілансерів; вони можуть також розглядатися обома групами. У зв'язку з новими трудовими відносинами, які відрізняються від традиційних форм зайнятості, в ЄС з'являються дві нові форми зайнятості: спільне використання співробітників і розподіл роботи. Останнім часом розвиваються такі нестандартні види зайнятості, як тимчасове управління, випадкова робота, мобільна робота на базі ІКТ, ваучерна робота, портфельна робота, одночасне дистанційне працевлаштування, спільна робота.

ЄС-регулювання нестандартних форм зайнятості юридично обґрунтоване. Правове регулювання трудових відносин в Україні здійснюється на основі диференціації, наслідком чого є розвиток нестандартної зайнятості. Серед особливостей, властивих такій зайнятості, правові норми виокремлюють деякі: 1) теоретична підстава нестандартної зайнятості передбачає нетипову зайнятість; 2) сторони домовляються про трудові відносини один з одним і про умови праці, не передбачені трудовим законодавством; 3) відсутня письмова угода між сторонами, які домовились про нестандартну зайнятість, які характеризуються стійким змістом; 4) працівник виконує роботу не в місці знаходження роботодавця; 5) високий ступінь індивідуалізації легальної зайнятості.

Основними факторами інноваційної трансформації зайнятості є мульти-трудоий конкурс роботодавців і правові форми співробітництва; конструктивна довіра між соціальними партнерами; поглиблення поділу праці у відповідності зі старими і новими технологіями; спеціалізація науково-технічних і технологічних можливостей з доступом до відповідної глобальної сертифікації персоналу; оптимізація фінансових механізмів для стимулювання винахідництва і раціоналізації; ефективна підтримка інновацій в бізнесі; впровадження соціальних інновацій; національна модель трансформації зайнятості в сфері державної політики; підвищення інвестиційної привабливості розвитку людського капіталу та його реалізації в нових формах зайнятості.

Ключові слова: нестандартна зайнятість, спільне працевлаштування, спільне використання співробітників, часткова зайнятість, дистанційна робота, аутсорсинг, аутстафінг, лізинг персоналу, ваучерна робота, випадкова робота, мобільна робота на основі ІТ, самозайнятість, спільне співробітництво.

**ПРЕДПОСЫЛКИ НЕСТАНДАРТНОЙ ЗАНЯТОСТИ
В ЕС И УКРАИНЕ: СРАВНИТЕЛЬНЫЙ АНАЛИЗ**

**Михаэль Шефер
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В статье раскрыты особенности нестандартной занятости в ЕС и Украине. Проведен сравнительный анализ нестандартных форм занятости в ЕС и Украине. Было доказано, что работодатели в развивающихся странах и развитых странах должны сокращать использование стандартизированной занятости, связанной с высокими расходами на налоги и социальное обеспечение, и предпочитают использование нестандартных работников, нанятых на условиях временных контрактов, использование которых не влечет значительных финансовых затрат.

В Украине наиболее развитой является заемная работа, в которой работник, нанятый одним работодателем, передается в распоряжение другого. В современных условиях в рамках заемного труда выделяют аутсорсинг, лизинг персонала и аутстаффинг.

В ЕС формы занятости дифференцированы в зависимости от того, относятся ли они к сотрудникам или к индивидуальным предпринимателям и фрилансерам; они могут также рассматриваться обеими группами. В связи с новыми трудовыми отношениями, которые отличаются от традиционных форм занятости, в ЕС появляются две новые формы занятости: совместное использование сотрудников и распределение работы. В последнее время развиваются такие нестандартные виды занятости, как временное управление, случайная работа, мобильная работа на базе ИКТ, ваучерная работа, портфельная работа, одновременное дистанционное трудоустройство, совместная работа.

ЕС-регулирование нестандартных форм занятости юридически обосновано. Правовое регулирование трудовых отношений в Украине осуществляется на основе дифференциации, следствием чего является развитие нестандартной занятости. Среди особенностей, присущих такой занятости, правовые нормы выделяют некоторые: 1) теоретическое основание нестандартной занятости предполагает нетипичную занятость; 2) стороны договариваются о трудовых отношениях друг с другом и условиях труда, не предусмотренных трудовым законодательством; 3) отсутствует письменное соглашение между сторонами, договаривающимися о нестандартной занятости, которые характеризуются устойчивым содержанием; 4) работник выполняет работу не в месте нахождения работодателя; 5) высокая степень индивидуализации легальной занятости.

Основными факторами инновационной трансформации занятости является мультитрудовой конкурс работодателей и правовые формы сотрудничества; конструктивное доверие между социальными партнерами; углубление разделения труда в соответствии со старыми и новыми технологиями; специализация научно-технических и технологических возможностей с доступом к соответствующей глобальной сертификации персонала; оптимизация финансовых механизмов для стимулирования изобретательства и рационализации; эффективная поддержка инноваций в бизнесе; внедрение социальных инноваций; национальная модель трансформации занятости в сфере государственной политики; повышение инвестиционной привлекательности развития человеческого капитала и его реализации в новых формах занятости.

Ключевые слова: нестандартная занятость, совместное трудоустройство, совместное использование сотрудников, частичная занятость, дистанционная работа, аутсорсинг, аутстаффинг, лизинг персонала, ваучерная работа, случайная работа, мобильная работа на основе ИТ, самозанятость, совместное сотрудничество.

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PRECONDITIONS OF NON-STANDARD EMPLOYMENT IN THE EU AND UKRAINE: COMPARATIVE ANALYSIS

**Michael Schaefer
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Preconditions of non-standard employment in the EU and Ukraine have been discovered in our article. Comparative analysis of non-standard forms of employment in the EU and Ukraine has been done. It was proved that employers in developing countries and developed countries have to reduce the use of standardized employment associated with high costs of taxes and social security, and prefer non-standard workers with temporary contracts, the release of which does not entail significant financial costs.

In Ukraine, the most developed is borrowed work in which the worker being hired with one employer transferred at the disposal of the other. In modern conditions within the borrowed work it is worth to distinguish outsourcing, staff leasing and outstaffing.

In the EU, employment forms can be differentiated by whether they pertain to employees or to the self-employed and freelancers; they might also apply to both groups. In relation to new employment relations that differ from the traditional concept of one employer and one employee, two new employment forms are emerging across the EU: employee sharing and job sharing. Last time it is developed such non-standard employment as interim management, casual work, ICT-based mobile work, voucher-based work, portfolio work, crowd employment, collaborative employment.

EU-regulation of non-standard forms of employment is justified well. Legal labor regulation in Ukraine is done on differentiation, the effect of which is the development of non-standard employment. Among the various features inherent in such employment, legal allocate some of its features, such as: 1) in theory the basis of non-standard employment supposes atypical employment; 2) parties agree on such an employment relations to each other working conditions not stipulated by labor legislation; 3) there is no written agreement between the parties entered into non-standard employment, characterized by steady in design and content; 4) employee performs work not at the employer's location; 5) high degree of individualization of legal employment.

The main factors of the innovative transformation of employment is a multi-labor competition of employers and legal forms of cooperation; constructive trust between the social partners; deepening division of labor to the old and new technologies; specialization of scientific engineering and technological capabilities with access to relevant global staff certification; optimization of financial mechanisms to attract invention and rationalization;

effective support for business innovation; activity of social innovations; national model of public policy innovation transformation of employment; investment appeal of human capital development and its implementation into the new forms of employment.

Keywords: *non-standard employment, job sharing, employee sharing, part-time employment, telework, outsourcing, outstaffing, staff leasing, voucher-based work, casual work, IT-based mobile work, self-employment, crowd employment, collaborative models.*

Introduction: Current conditions of formation of postindustrial society led to the spread of more flexible forms of employment that provide for «dilution» basic standards of legal regulation of the labor market. Changes in work organization and more flexible use of working time mode, as well as the nature of the relations «employee-employer» led to new non-standard forms of employment.

Mostly external factors reduce the demand for standard time and extend the flexible use of non-standard forms of employment, and due to various objective globalization processes that affect the development of the national economy. Reducing the share of traditional industries as a result of structural changes in the economy led to a reduction in demand for standard employment, development and expansion of services, which require employed persons who could work under flexible working schedule on the temporary contracts are more or less working hours than provided by legislation. An important condition of employment becomes a functional flexibility employee, who may take a certain position in the company by the employer to replace the absent employee, combining the duties.

Global competition requires employers to reduce costs to improve the competitiveness of their products and services as well as workers, to adapt to the conditions of increased flexibility of employment, which in turn increases the uncertainty and instability of the environment, where the developing relations of employment is stated. Employers in developing countries and in developed countries have to reduce the use of standardized employment associated with high costs of taxes and social security, and prefer non-standard workers with temporary contracts, the release of which does not entail significant financial costs. The high share of wages in production costs of developed markets encourages the relocation of production to other regions or countries, where the labor costs are less, therefore, development a non-standard employment scheme and outsourcing, offshoring, leasing staff to preserve competitiveness in a globalized market.

1. Problem Statement: Balanced functioning of labor markets in the national and international levels are the base for the sustainable socio-economical development of each country. In the EU Members-states standard (full-time) employment as a traditional form of hiring is getting less popular since ITC development and wish of people to be more flexible. Globalization takes significant role in this process, as migration of population (especially economically active population) becomes unobstructed and more widespread in the world.

In Ukraine, «non-standard» employment relations can be seen in two ways. First form is the non-standard employment contract, i.e. the rejection of the formal contract conditions from legalized standards; second form is non-standardized employment conditions. In this sense, non-standard workers are those who have signed a non-standard contract, as well as those who don't have a contract at all (e.g. self-employed or workers, who are involved to the work on the basis of verbal agreements) or those who are working in non-standard mode under conditions of full-employment.

Absence of legal basics in Ukraine for the non-standard employment unlike European approaches makes necessary to research preconditions of non-standard employment in Ukraine with the purpose to use positive EU-experience in the formation of effective forms of ensuring the work and raising quality of the life under conditions of implementing an independent professional choice.

2. Aims and Objectives: The aim of the article is to explore non-standard employment in the EU- and Ukrainian realities. To achieve the aim it is necessary to solve the following tasks: define the concept of non-standard employment; describe its types and characteristics; analyze basic position of labor law on the matter (employees, employers, trade unions, government); identify problems with the protection of the labor rights of employees engaged in non-standard employment.

3. Analysis of current researches: Issues of non-standard employment have been researched by the EU and non-EU scientists. General issues of non-standard employment have been discovered by coryphaeus of classical science, such as Mandl, I., Curtarelli, M., Riso, S., Vargas, O., Gerogiannis, E., George, E., Chattopadhyay, P., Bray, M., Stewart, A., Broughton, A., Biletta, I., Kullander, M., Chan, T., Goldthorpe, J., Kalleberg, A., Carré, F., Ferber, M., Golden, L., Herzenberg, S., Houseman, S., Kanter, R., Handy, C. Specific types of the non-standard employment in Ukraine have been considered in scientific works of Bandur, S., Bizukov, P., Cordova, E., Gavriushenko, G., Novak, I., Getman, O., Zhadan, O., Hudzynsky, S., Overkovskiy, B., Tulenkov, M. et al. But these scientific papers don't contain common mechanism of non-standard employment regulations.

4. Materials and Methods: There are wide scientific instruments which have been used in our research. Methods of analysis and synthesis have been used in the process of non-standard types of employment; comparative analysis has been used during the non-standard types of employment description; logical methods for making conclusions.

5. Dynamics of non-standard employment in the EU and Ukraine: causes, effects, consequences and determinations: Replacing standard forms of employment, non-standard employment leads the development of informational and communication technologies (ICT). In developed countries intensive ICT makes intense creation of innovative businesses through the Internet [1]. The availability of modern communications allows employees to

perform many kinds of work on distance from the employer or customer using convenient mode of work. To remain fundamental to customer requirements for quality of goods and services, cost savings for the organization of the workplaces encourages employers to provide the benefits of non-standard employment in terms of lifetime employment and remote temporary workers.

Significant role in the spread of non-standard employment has a demographic shift in the labor forces. Entering the labor market women with children, youth, learning, pensioners willing to earn additional income, the emergence of this new category of vulnerable people as internally displaced persons increased offer on the part of employees in non-standard employment form. These categories of workers agree to work on a part-day with flexible, remote time; they are interested to get low income realizing its employment potential, gaining the necessary experience and do not require from employer social and financial guarantees in full volumes, which are obligated by the legislation for workers employed at standard conditions. The labor market as the main regulator of employment stimulates the creation of new effective jobs, increasing the proportion of non-standard forms of employment that are more competitive because of their flexibility and adaptability worldwide.

In Ukraine, the most developed is borrowed (i.e. involved) work in which the worker being hired with one employer transferred at the disposal of the other. In modern conditions within the borrowed work it is worth to distinguish outsourcing, staff leasing and outstaffing.

Outsourcing is the transfer of a separate (non-core) feature to an external enterprise company (outsourcer), a specialist in this field to serve for a long time. In Ukraine, the most common business process is outsourcing, which provides standardized current transmission (e.g. handling customer phone calls in specialized call-centers, usually located in places with cheaper labor). In addition, distinguished manufacturing outsourcing (production or its components), IT-outsourcing (development, implementation and support of informational systems) outsourcing knowledge management (analytical processing, development and management of knowledge bases).

Outstaffing is a withdrawal of workers from the state employer-user and designs them in the state of another employer (provider), while employees are working at the previous workplace and perform employer's pre-responsibilities and obligations concerning them. Providers at outstaffing are private employment agencies or recruitment agencies. Contract of employment is made between workers and employment agencies; labor relations arise where the agency is a formal employer-employee condition. The employee is sent to serve the actual employer, the employment relations between them doesn't arise, as the employment, dismissal, salaries and taxes is paid by the employment agency. Between the private employment agency and the actual employer entered into a civil contract for services.

Staff leasing is kind of borrowed labor in which workers appropriate qualification and profile temporarily engaged to perform certain tasks (projects) of another company (actual employer) [2].

According to research, often outsourcing in Ukraine passes: IT-services (40.5%), logistics (35.1%), industry (27%), marketing services (21.6%), recruitment (18.9%), accounting (13.5%), payroll (13.5%), processing and systematization of information (8.1%), outsourcing of medical representatives (8.1%), supporting staff (5.4%) and administrative staff (2.7%). Borrowed labor in Ukraine can be seen in the following data. The most popular are the services to provide temporary staff for short-term projects (48.4%), services to provide staff on long-term projects occupy (35.5%), services outstaffing (29%) and outsourcing services (12.9%) [3].

Nowadays, Ukraine is the largest Eastern European country supplying IT outsourcing services all over the world. Over last five years, outsourcing sector has been constantly evolving striving to be among top outsourcing destinations [4]. Ukrainian outsourcing companies are becoming more experienced in the business. Some companies have opened new locations in the EU or Western Europe and relocated there some teams. Furthermore, Ukraine keeps 4th place in the world by the number of IT-professionals. The annual number of technical graduates is still about 15,000. This number does not include junior specialists using non-formal education like online courses, webinars and schools for developers, which is becoming enormous. Thus, IT Ukraine Association and Ukrainian Hi-Tech Initiative are the biggest IT outsourcing companies in Ukraine [5].

Despite the rapid spread of borrowed labor in Ukraine there is no consistency of socio-labor views on this issue. If employers perceive positively borrowed labor, the unions see it as a threat to labor rights [6]. As for the workers, their work is often involved as the only possible solution to the situation of lack of funds and the need to hold their families. To attract employees by companies is explained by the following advantages [7]:

1) use of labor in conditions of borrowing allows businesses to replace quickly employees who are absent for different reasons (vacation, business trip, illness, etc.);

2) loan allows to have the right number of employees for the rapid implementation of production assignments (urgent, unpredictable related to seasonality, etc.);

3) form of involvement allows flexibility to change the quantity and quality of workers by fluctuations in economic conditions, such as peak sales of goods, serving international sporting events, forums, festivals etc.;

4) drawing staff on the terms agreed with the Employment Agency cannot be in all but in many cases optimize wage costs;

5) involvement employees who are not issued until the state can achieve higher rates of labor to increase its productivity by bringing employees from the state;

6) the employer is not burdened with the obligation to pay social security contributions for the employee to a system of compulsory state social insurance.

Another common type of non-standard employment is telework or telecommuting employment. The performance is not at the employer's location to use of ICT. According to some researchers, teleworking is a new organizational form of work from home, which is the work of highly qualified specialists to perform functional duties using modern informational and telecommunication technologies [8]. Unlike teleworking, traditional home work is mainly unqualified manual labor using simple equipment.

New employment forms identified by Eurofound can be classified into two groups:

- 1) new models of the employment relations between employer and employee, or client and worker;
- 2) new work patterns, i.e. new ways in which work is conducted.

At the same time, the employment forms can be differentiated by whether they pertain to employees or to the self-employed and freelancers; they might also apply to both groups. In relation to new employment relations that differ from the traditional concept of one employer and one employee, two new employment forms are emerging across the EU: employee sharing and job sharing. Employee sharing means that an individual worker is jointly hired by a group of employers (who are not clients of a traditional temporary work agency). In contrast to this form is job sharing, in which a single employer hires two or more workers to jointly fill a specific job.

The voucher-based work is form of employment, in which the employment relations and related payment is based on a voucher rather than an employment contract. In most cases, workers then have a status somewhere between employees and self-employed.

As regarding new work patterns, these include interim management, casual work, ICT-based mobile work, crowd employment, portfolio work and collaborative employment. Interim management is a new work pattern among employees and describes situations in which a worker is usually a highly skilled expert. In contrast to the traditional fixed-term work arrangements, interim management has some elements of consultancy, but the expert has employee status rather than that of external advisor.

Casual work is employee-oriented form of employment. Here the employer is not obliged to regularly provide the worker with work, but has the flexibility to call on them when needed.

ICT-based mobile work refers to work patterns characterized by the worker (whether employee or self-employed) operating from various possible locations outside the premises of their employer (e.g. at home, at client's premises or on the road), supported by modern technologies such as laptop. It is different from traditional teleworking in the sense of being even less place-bounded.

For self-employed and freelancers, crowd employment is a new option; this is also characterized by not being place-bounded. Virtual platforms match a large number of buyers and sellers, often with larger tasks being broken down into small jobs. In a similar way, portfolio work done by the self-employed refers to situations in which they work for a large number of clients, providing small amounts of work for each of them.

New patterns of self-employment in the form of new collaborative models that go beyond traditional business partner relations were found in a variety of countries. Interestingly, there is not much difference in the number of countries in which each new employment form was reported, many being found in around 10 countries (Table 1).

Interim management and voucher-based work were less common and ICT-based mobile work was the most common.

In most EU Member States and Norway, more than one new employment form was identified. Only in Bulgaria, Croatia, Luxembourg and Poland was just one emergent employment form identified, while in Greece and Hungary seven were found. In many of the Eastern European Member (Bulgaria, Croatia, the Czech Republic, Poland, Romania, Slovakia and Slovenia) and in some Northern European countries (Finland, Ireland, Luxembourg and the Netherlands), the new employment forms identified mostly concern employees, while those found in most southern European countries (Cyprus, Greece, Portugal and Spain), the Baltic states (Latvia and Lithuania), Denmark and Germany generally involve the self-employed. New employment forms for both employees and self-employed have emerged in several Central and Northern European countries (Austria, Belgium, France, Hungary, Italy, Norway, Sweden and the UK). Most of the new employment forms are based on traditional employment or service delivery contracts. Operating outside a specific legal or collectively agreed framework can be somehow problematic. E.g. Czech researchers suggests that employment relations are not defined by legislation and characterized by lower levels of social protection and less advantageous working conditions, particularly as regards pay, social protection or liability for harm from work-related injuries [9].

Employers have a choice to hire employees in standard work contracts (fulltime, indefinite work contracts) or in non-standard contracts. An agency-theory perspective suggests that company offers standard contracts to workers in order to align closely the interests of the aim of the organization. Incentives that ensure job security such as full-time employment, for an indefinite period of time cause workers to act with the goals of the company rather than self-interest in mind. There is also transaction cost considerations in the use of non-standard contracts. When the cost of making the contract exceeds the value derived from the contract then the company could decide to keep the activity in-house. If contract is made such a way that the company's interests are not jeopardized, then the activity can be outsourced. For jobs that are difficult to specify that require specific skills, the company should have workers in standard employment where the long-term interests of employees and the company are coinciding. When work doesn't require specific skills, or where the input-outcome links can be easily monitored, employers can contract those jobs out to non-standard employment.

Thus, theoretical arguments justify reasons, when and why companies-employers should use non-standard work arrangements. It makes strategic sense for jobs that are not the main to the core company's tasks, where skills for the job are not rare or unique, and where tasks performance can be easily controlled [10].

Table 1. New forms of employment identified in European countries and in Ukraine

	Employee sharing	Job sharing	Interim management	Casual work	ICT-based mobile work	Voucher-based work	Portfolio work	Crowd employment	Collaborative employment
Austria	X					X			X
Belgium	X			X	X	X		X	X
Bulgaria	X								
Croatia				X					
Cyprus					X		X		X
Czech Rep.	X	X	X					X	
Denmark					X		X	X	
Finland	X				X				
France	X		X	X	X	X			X
Germany	X				X			X	X
Greece	X		X		X	X	X	X	X
Hungary	X	X	X	X	X		X		X
Ireland		X		X					
Italy		X		X		X	X	X	X
Latvia			X		X		X	X	
Lithuania					X	X	X	X	X
Luxembourg	X								
Netherlands				X	X		X		X
Norway			X		X		X		
Poland		X							
Portugal					X		X	X	
Romania				X					
Slovakia		X		X					
Slovenia		X		X	X				
Spain					X			X	X
Sweden				X	X				X
UK		X	X	X			X	X	
Ukraine		X			X				

Note: For Estonia and Malta, no new employment form corresponding to the working definitions of this project could be identified.

Source: Eurofound, based on national contributions

Theoretical base of non-standard employment is described professionally in the scientific review of Elizabeth George & Prithviraj Chattopadhyay (2015). They have resumed overview of scientists. They noted some fundamental papers. Thus, Kalleberg et al (2003) stand that companies that provide better benefits for standard workers also tend to hire temporary workers (using offset costs). Bryson (2013) found that wages are higher in companies that use more temporary workers, but lower for standard workers, suggesting the cost advantage operates only for companies with particular configurations of temporary workers. Nollen (1996) found out, when turnover and productivity costs are controlled for, the use of non-standard workers was ineffective. Nielen & Schiersch (2014) found out an inverse U-shaped relation between the extent and labor costs. They state that use of temporary employees could reduce hiring costs since companies are able to screen their potential by hiring them as temporary workers. But these savings will eventuate if employees who started as temporary workers perform better than those who were hired directly. In a study of Dahling, Winik, Schoepfer & Chau (2013) it is found out that after yearly employment, workers who permanent status from temporary positions had performed equally well as workers who had been directly hired through employee referrals or online advertisements. This study suggests that the cost advantage suggested by the «temp-to-permanent» strategy might not be as clear as it is hypothesized to be. Chinese scientists Xuang (2013) found that allowing employees to work from home four days a week with the fifth day at the office provided significant cost savings. The experiment was run over a nine month period and the results showed that the performance of the at-home workers went up by 13%, driven largely by fewer breaks and sick days and longer hours logged on to work, resulting in savings of about \$2000 per employee. Results of the study have permitted the researchers to observe a «learning and re-selection» effect such that workers who performed poorly at-home moved back to work in the office, resulting is a further improvement in performance of the unit. Thus, they found that over time the option of at-home work improved performance by 22%, significantly more than the 13% they first found [10].

Employer's decision to engage in non-standard work arrangements will be influenced by its features, such as size, profile, skilled level of workforces, its proprietary knowledge, practices, level of competition and the regulatory framework. Some industry sectors have been associated with non-standard arrangements, such as temporary (or

seasonal) employment in agriculture, construction (highly seasonal and characterized by contractual arrangements), and the arts or decorations (project activity) [11].

5. The legal framework regulating non-standard employment in Ukraine and the EU: comparative analysis: During the mid 1970's dominated standard with full-time workload. Full employment was a clearly formulated goal of public policy for three decades after World War II. ILO Convention No. 122 adopted in 1964 on the Employment Policy in which it is put responsibility on governments to develop policies designed to promote full, productive and freely chosen employment. ILO standards are invaluable in developing public policy in the area of employment, both at international and national levels. However, in our point of view, certain standards (such as full and permanent employment) to some extent are outdated and under current conditions to be agreed.

State regulation of employment is a multi-process and presented in summary form in three levels: national, regional and local (Figure 1).

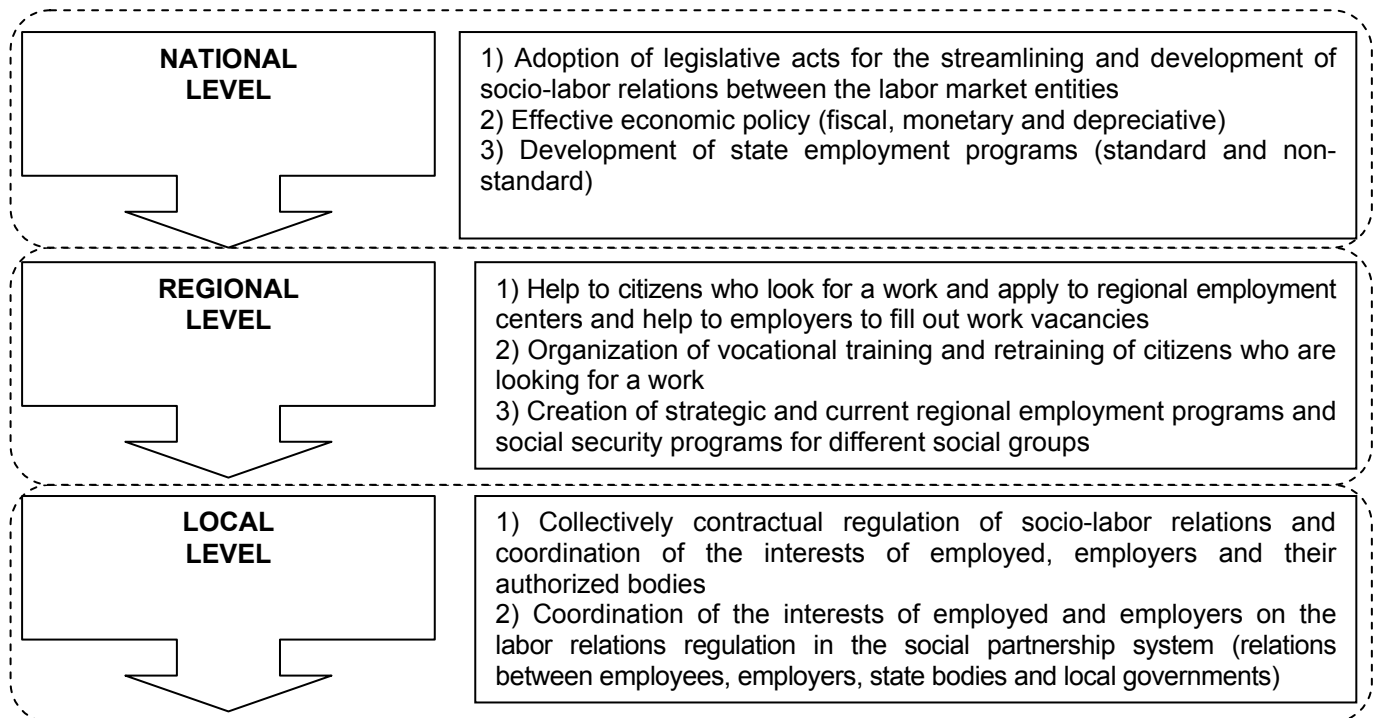


Figure 1: Scheme of the state employment regulation

Source: created by authors according to [12]

In Ukraine, employment policy is based on the labor legislation, covering such basic laws: the Labor Codex of Ukraine, the Law of Ukraine «On Employment», the Law of Ukraine «On Collective Agreements», the Law of Ukraine «On the procedure for settling collective labor disputes (conflicts)», the Law of Ukraine «On wage», the Law of Ukraine «On Labor Protection», the Law of Ukraine «On pensions», etc., are regulations to ensure the functioning of state regulation of employment.

Under the Law of Ukraine «On Employment» No. 5067-VI from July, 05, 2012 is proposed to understand that employment does not prohibit those activities by law which are related to the satisfaction of personal and social needs for the purpose of obtaining income (wages), as well as the activities of family members, places of business or work in the business entities based on their property (paragraph 1, art. 1). Without analysis of this definition, we note that the standard or default considers full employment as employer-employee relation at a rate of time provided by law, or the collective labor agreement. This is the hired labor on full-time basis indefinite employment contract. Changing even one of these conditions, it is advisable to talk about the non-standard employment [12].

The term «non-standard employment», «innovative employment» and «government regulation of non-standard employment» are absent in the labor legislation of Ukraine. However, the activities of people associated the use of some innovative forms of employment (casual employment, underemployment, involving overtime) is regulated by national labor legislation. Regarding employment distant and remote workplace, there is no actual prohibition of their use in Ukraine.

Workplace, according to the Law of Ukraine «On Employment» is defined as a place (room) where the employee permanently or temporarily is in the workplace and that determines, in particular under the employment agreement (contract) [12]. This interpretation differs from the definition provided by the 19th International Conference of Labor Statisticians, according to which a job or work activity is defined as the range of tasks and duties that are performed or should be performed by one person for the benefit of a single economic entity (market units: corporations, households, non-market units, public sector and non-profit institutions serving households, households that produce goods for own use) [13]. Thus, the use of remote employment in Ukraine is not prohibited

by law, but rationing, payment of such work and control over compliance with regulations on safety in the long employment are not regulated by current legislation. Informal employment is outside the scope of state regulation, although the Law of Ukraine «On Employment» declared the right to choose employment freely, occupation and place of work for employees according to their needs.

Legal labor regulation is done on differentiation, the effect of which is the development of non-standard employment. Among the various features inherent in such employment, legal allocate some of its features, such as:

- 1) in theory the basis of non-standard employment supposes atypical employment;
- 2) parties agree on such an employment relations to each other working conditions not stipulated by labor legislation;
- 3) there is no written agreement between the parties entered into non-standard employment, characterized by steady in design and content;
- 4) employee performs work not at the employer's location;
- 5) high degree of individualization of legal employment.

Quantitative and qualitative growth of non-standard employment forms took place in Western Europe and the US in the 1970's, but the recognition of the non-standard employment happened only in the late 1990's to the early 2000's in the regulations of the International Labor Organization (e.g. Convention No. 181 «On private employment agencies»). In 2008, the EU adopted Directive on work in temporary employment agencies 2008/104/EC.

Depending on countries' regulatory institutions and processes, legislation and/or collective agreements have been adopted to regulate various non-standard forms of work. In fact, in some countries, both instruments collective agreements and legislation are combined, while in others collective bargaining at tripartite level mainly regulates complex issues concerning non-standard employment arrangements.

At the EU level, the European social partners formulated successive framework agreements to bring the regulation of non-standard forms of work closer to that of standard forms. EU legislation governing part-time work and fixed-term workers has provided a range of rights under these types of contracts, i.e. through the regulations passed under Council Directive 97/81/EC of December, 15, 1997 on part-time work and under Council Directive 99/70/EC of June, 28, 1999 on fixed-term work. Both of these directives reproduce framework agreements concluded by the European social partners: the European Trade Union Confederation (ETUC), Business Europe (BE) and the European Centre of Enterprises with Public Participation and Enterprises of General Economic Interest (CEEP). Directives have been transposed into national legislation in all EU Member States. Therefore, many Member States have changed their legislation relating to part-time and fixed-term workers in recent years in order to comply with these EU directives. The purpose of the regulation is to guarantee the rights of the workers engaged in these flexible forms of work.

At the regional level, the most detailed instrument regulating fixed-term work is the European Union Council Directive 1999/70/EC of June, 28, 1999 concerning the Framework Agreement on Fixed-Term Work concluded by the social partners (ETUC, UNICE & CEEP). It is recognized in this directive that contracts of an indefinite duration are and will continue to be, the general form of employment relations between employers and workers, but that fixed-term employment contracts can respond in certain circumstances to the needs of both employers and employees. The Directive defines the term «fixed-term worker» as «a person having an employment contract or relations entered into directly between an employer and a worker where the end of the employment contract or relations are determined by objective conditions such as reaching a specific date, completing a specific task, or the occurrence of a specific event» [14]. In most countries, fixed-term contracts are regulated by specific legal provisions, but they can also be governed by collective agreements at the enterprise', sectoral or national levels.

The term «part-time worker» is defined by the ILO Part-Time Work Convention, 1994 No. 175 as an employed person whose normal hours of work (calculated weekly or on average over a given period of employment) are less than those of comparable full-time workers [15]. A similar definition is contained in the EU Council Directive 97/81/EC of December, 15, 1997 concerning the Framework Agreement on Part-Time Work concluded by UNICE, CEEP and the ETUC, but here it limits to one year to the reference period over which the hours of work may be calculated on average to determine whether a worker is employed on a part-time basis. The distinction between part-time work and other non-standard forms of employment may thus be blurred, for instance when workers are engaged in full-time seasonal work or intermittent work. Their daily and weekly working hours may be «normal», but when calculated over a period of one year they could be considered as part-time workers. Convention No. 175 specifies that workers affected by partial unemployment, defined as a collective and temporary reduction in normal hours of work for economic, technical or structural reasons, are not considered to be part-time workers. Part-time work should also be distinguished from cases where the working hours of certain categories of full-time workers are reduced, for instance by reason of their age, the hazardous substances to which they are exposed, or the night shifts they perform.

In 2003, new legislation reforming the Italian labor market came into effect (IT0307204F). The law introduced numerous innovations in terms of employment services and contracts, such as staff leasing, on-call work, project work and work contracts. It also introduced changes regarding the involvement of the social partners in management of the labor market. The main aim of the law was to make the Italian labor market more flexible in order to encourage job creation. The main new types of employment contract introduced by the law are described below.

The first type of employment is staff leasing contracts (contratto di somministrazione di lavoro). Under this system, companies may lease the workers they need for technical, productive or organizational reasons from

employment agencies. Permanent staff leasing is allowed only for particular kinds of work, such as portering and cleaning, surveillance and security, informational technologies (IT), consultancy and assistance, personal assistance and care services, management of call centers and other areas to be specified by collective bargaining. As regards the leasing of workers on a fixed-term basis, this may also concern the user company's core activities, and collective bargaining may impose restrictions on its use by employers. The workers on staff leasing contracts enjoy the same rights as employees of the user company, including trade union rights, and they receive the same pay. The leasing companies must pay a sum equivalent to 4% of the remuneration received by the workers on staff leasing contracts into a joint worker/employer fund, to be set up by the parties to a forthcoming national collective agreement for staff leasing companies. These financial resources are used to fund training and retraining courses, along with social security provisions or income support at the conclusion of the workers' period of employment and work-entry schemes for disadvantaged workers. The staff leasing system, where the user company has full managerial authority over the workers concerned, differs sharply from subcontracting or outsourcing, whereby the subcontractor exercises such authority. Moreover, staff leasing agency must fulfill all of the requirements that temporary work agencies must meet, and it must furnish all of the protection envisaged for temporary agency work, which is replaced by fixed-term lease work. In addition, the law envisages that staff leasing may be used to favor the entry or re-entry into work of disadvantaged groups of workers initially, through specific projects carried out jointly by staff leasing agencies, job placement services and local authorities.

A second type of employment contract covered by the new legislation is on-call work (*lavoro intermittente*), whereby the worker is available to be engaged by the employer for a pre-established period of time. However, the employer may make use of the worker for only a limited number of days during this period, depending on production peaks and organizational needs. The employer must notify the worker that their services are needed at least one working day in advance. Furthermore, the on-call work contract must stipulate the monthly allowance to be paid to the worker during the period of their stand-by availability to the employer. This amount should be fixed by collective agreement, but may not be less than a level established and periodically updated by Italy's Ministry of Labor and Social Policy after consultation with the employer organizations and trade unions.

The law also covers job sharing (*lavoro ripartito*), an arrangement based on a special contract whereby two or more workers jointly assume the responsibilities of a single work obligation. The workers may decide by informing the employer on a weekly basis on substitutions and exchanges, as well as alter their schedule of working hours. Pay and social security contributions are not calculated beforehand but on a weekly basis.

In order to encourage companies to use part-time work and to facilitate the labor market entry of people, who need to reconcile work with family responsibilities, study or other commitments, the law seeks to foster the use of part-time work. This encompasses both vertical (comprising working days similar to those of full-time workers, but with the number of working days reduced) and horizontal (with reduced working hours every day) part-time work. The law aims to encourage the use of part-time work by including elastic clauses, which allow employers to increase working time and modify schedules, according to criteria and the conditions agreed by the parties.

The law also encompasses changes to the rules governing employer-coordinated freelance work (*collaborazione coordinata e continuativa*), or semi-subordinate contracts, which affect about 2.3 million Italian workers (IT0011273F). The amended rules state that employer-coordinated freelance work should concern one or more specific projects or work programs, or phases thereof, determined by the employer and managed autonomously by the freelance worker, who is responsible for the final result, in coordination with the employer organization and regardless of the time taken to complete the work. This provision effectively forbids open-ended contracts for employer-coordinated freelance work. It aims to re-regulate this type of employment relationship, either by linking it to a project or bringing it under the regulations on subordinate work.

A fifth area of regulation concerns supplementary work (*lavoro accessorio*), which is work of a merely occasional nature undertaken by persons at risk of social exclusion or who have not yet entered the labor market or who are about to leave it. The term merely occasional denotes activities involving a worker for no more than 30 days in a calendar year, and for which the remuneration amounts to no more than €5,000 in a calendar year. The service performed must take the form of minor and exceptional domestic work (for instance, child minding or care of elderly persons), private tuition, gardening or the organization of social, sporting, cultural or charitable events. In order to regularize these employment relationships, the employer must purchase vouchers comprising both pay and social security contributions, which is issued to the worker. Each voucher booklet for supplementary work has a nominal value of €7.50 for an hour of work, of which the worker receives €5.80.

A final area concerns contracts with a training component, such as apprenticeships. The law makes possible to conclude an apprenticeship contract with a young person aged 18-29 years for various purposes: fulfilling the right/duty to education and training; gaining a qualification by means of on-the-job training and technical or professional instruction; or acquiring a diploma or complementing a higher education program. Furthermore, for particular categories of workers, including young people aged 18-29 years and disadvantaged workers such as long-term unemployed people aged less than 32 years, unemployed workers aged over 45 years, and women living in areas with high levels of female unemployment, the law introduces a work entry contract. This contract aims to achieve by means of an individual project to adjust the worker's professional skills to a particular job, its labor market entry or reentry. This employment relations replace the former work/training contract (*contratto di formazione e lavoro*), which had been criticized by the EU for its overly wide scope of application [16].

Modern concepts of non-standard employment: Several terms have been proposed to determine the non-standard employment: most common terms are «atypical employment» (Cordova, 1986) [17] and non-standard employment (Chan & Goldthorpe, 2007) [18]. The concept of standard and non-standard employment is not common, but increasingly used by researchers. American sociologist Kalleberh noted that the standard hierarchical organization of labor relations is rather historical anomaly, while various forms of non-standard employment follow the general rule [19]. Frequent change of work becomes the norm, and guaranteed continued employment with one employer is found less and less. In most countries temporary workers (including employees on fixed-term contracts, seasonal workers, employees of agencies that provide employment services to the third parties, etc.) are the fastest growing segment of non-standard employment (Carré, 2000) [20].

Demand for temporary workers as certifying Hausman (2001), depending on the size of companies, territorial location, seasonality of production, presence of trade unions, employee benefits system [21]. Kanter showed that under the influence of evolutionary changes in socio-labor issues inherent in industrial society, a system of lifetime employment has changed complex contracts none of them include full and permanent employment [22]. Handy has listed consistent renewal of contracts concluded for a fixed term in theories of organization and shamrock [23].

Native authors look for non-standard employment equally. E.g. Biziukova [24] wrote that there are two types of labor trajectories that lead workers need to start working in unusual conditions: 1) downward mobility of labor, which is due to various causes subjective and 2) external factors. Subjective reasons include declining inability, unwillingness, indifference to rising skills that would help him/her to get the knowledge necessary to obtain decent work. The external include: business decline or knowledge application, family circumstances, lack of demand for narrow and specific skills, so on. This type of labor trajectory depends on certain life situations, which causes a person to agree to work in unfavorable conditions. The second type of trajectory can be described as adaptive mobility as the main criterion for the movement of workers as their high capacity for adaptation and conscious rejection of traditional values and legitimate labor standards. The second type includes workers who have employment opportunities at standard conditions of employment, but make their choice in favor of non-standard forms of employment deliberately, believing that it maximizes their profits. Zhadan noted [25], non-standard employment is reflected in the wider (non-standard conditions) and narrow interpretations (non-standard employment contract). Theoretical approach to the definition of standards is constantly changing depending on the particular socio-economic development. Postindustrial economy led to the formation of theoretical concepts of dual labor market «peripheral jobs» and «contract fringe».

Conclusion: The demand for new goods and services is innovation in the form of new technical, technological, organizational and administrative decisions as a characteristic of the informational economy, which defines demand for innovative employment. Such employment provides innovative type of workers, who are skilled, proactive, creative, working on international standards with the use of ICT, enterprising, high adaptive capacity broad outlook, likely to produce innovation and able to implement them in life [26-27].

Studying different models of innovation and employment, we should take into account such aspects as the type of national system of innovation. We can distinguish the following main types of national innovation systems: market (US and UK); Intercompany (Japan); Social Democratic (Scandinavian countries); Integration European (Germany, France, the Netherlands and Italy). Based on these innovative systems we can build relevant national employment models. The division is rather arbitrary; as any country can be attributed to a specific model has not in all respects. Thus, German model of innovative employment for some parameters are close to the European mainland, and the other close to the Japanese model. Formation of Japanese employment model of innovation is closely linked to the formal labor market institutions, as well as with informal institutions, values, non-corporate ideals. They define pattern attitude of the company's staff, high staff loyalty to the company, «quality circles», dependent on wages and seniority premiums are increasing, and the orientation of the labor market and intra-oriented social partners in cooperation.

If we compare the development of innovative type of employment in OECD countries, CEE and CIS, for the latter characterized by the following processes: high rate of job destruction and creation of new type of the private sector. Moreover, if the share of traditional flexible forms of employment (work for futures contracts and in part-time work and self-employment) remains fairly stable employment growth is based on «unearned» contracts or work performed without a contract. In the CEE countries in recent years an increasing number of fixed-term employment contracts, but their share is lower than in the EU countries (10%). So, the growth of the informal part of flexible employment in many CEE is [29].

Considering the Strategy for Sustainable Development «Ukraine-2020» can be seen the following trends. The main factors of the innovative transformation of employment is a multi-labor competition of employers and legal forms of cooperation; constructive trust between the social partners; deepening division of labor to the old and new technologies; specialization of scientific engineering and technological capabilities with access to relevant global staff certification; optimization of financial mechanisms to attract invention and rationalization; effective support for business innovation; activity of social innovations; national model of public policy innovation transformation of employment; investment appeal of human capital development and its implementation into the new forms of employment. It is assumed that most likely social innovations in employment in the future will be [30]:

- 1) public-private partnerships to create jobs;
- 2) innovative forms of employment flexibility combined with social technologies of surveillance, recording and registration status, employment conditions and safety;

- 3) spread of outsourcing and staff leasing, outstaffing;
- 4) modernization of social dialogue in triangle «state – business – trade unions» in a broader format of «state – business – society»;
- 5) transition from the social support policy to active employment policy;
- 6) comprehensive continuous professional orientation program;
- 7) innovative technology transit youth into the labor market;
- 8) promotion of social and professional rehabilitation of unemployed;
- 9) programs the active involvement of economically inactive population;
- 10) voucher technologies in vocational training;
- 11) stimulation of professional and territorial mobility;
- 12) creation of innovative jobs, i.e. telecommunications based on the online communications, modernized home-based work and co-working.

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