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Dimensions of Atypical Employment in Romania[1]

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Abstract.*Official statistics cannot always highlight the true scale of atypical work phenomenon in Romania because of the multitude of non-standard forms of employment and because of the fact that its regulatory and monitoring mechanisms are built in accordance with the typical work model. The purpose of our research is to try to estimate the atypical employment in Romania using a variety of statistical data basis.*

Keywords:labour market; atypical employment; bogus self-employment

JEL Codes:J21, J41

1. Introduction

In Romania, the atypical forms of employment got little attention from the academic environment because, until recently, most employment contracts were typical, full-time, of undetermined duration and signed with a single employer.

The changes made in recent years to the legal framework regulating individual and collective labour relations, have led to increased forms of atypical employment in our country, particularly in the context of a labour market that was affected by the economic crisis.

The extent to which atypical work is covered by the provisions of the labour law, is difficult to quantify in both, because of the diversity of non-standard forms of work and because of the fact that the common regulatory and monitoring mechanisms are shaped considering the typical work. For this reason, official statistics can not always reveal the true scale and characteristics of atypical work phenomenon in Romania.

2. Basic quantifications and dimensions

According to the Romanian Labour Inspection, subordinated to the Romanian Ministry of Labour, Social protection, Family and Elderly Persons, which maintains the REVISAL national electronic register of the employees, as of the end of 2014 (see the website of the labour inspection at www.inspectiamuncii.ro, annual reports), there were a total of 5,824,582 individual labour contracts registered. This is, however, not the total number of employees necessarily as some of the employees may have two or even more labour contracts both with their employer as well as with another employer, but it is close to it as the number of those having more than one labour contract is practically marginal (see next section for that). As against 2011, the year when the Labour Code has witnessed quite a profound change especially with regard to the

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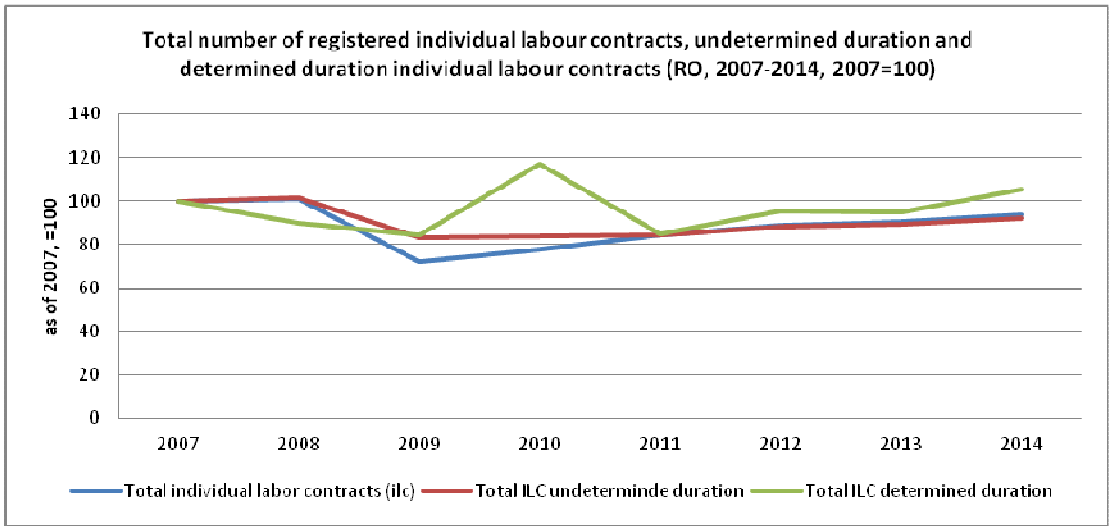
collective bargaining rights (i.e.: mandatory national collective bargaining and national collective agreement have been removed from the text of law), the total number of individual labour contracts has increased by 11%, which proves that a certain upward move has been taking place in the economy since it has managed to extract itself from the claws of the deep recession following the 2008-09 crisis. As against 2010, when the effects of the massive lay-offs that took place during 2009 were still deeply felt on the labour market, the total number of individual labour contracts increased by 34%, making it for a more than clearly positive move.

Chart no.1



Source: Data of the Romanian Labour Inspection (at www.inspectiamuncii.ro) processed by Dr.CatalinGhinararu;

As of the structure by type of contract allowed by the Romanian Labour Code (i.e.: undetermined duration contract which is the rule, determined duration, which is considered the exception inside which here may be full-time or part-time undetermined or determined duration contracts), 91.72% were "typical" or undetermined duration contracts (2014), with only the rest of 8.3% (482,423, also 2014)) being determined duration contracts (which may qualify as "atypical" work arrangements). Inside this broad structure out of the 482,423 determined duration contracts, a total of 132,178 or 27.9% are part-time determined duration contracts with the rest of 72,7% (350.248) being full-time determined duration contracts. As for the undetermined duration contracts, 4,453,810 individual work contracts, or 83.3% of the total are full-time contracts with only the remaining 888,349 or 16.6% being part-time undetermined duration contracts. The conclusion which imposes itself is that due to the peculiar character of the Labour Code which limits the use of determined duration contracts to a certain well specified number of situations and activities the use made by the employers of this type of contractual arrangement is highly limited, mostly counting as work on "projects". This is also due to the fact that no fiscal and nor social contributions facilities are associated with this type of contractual arrangement.

Chart no.2

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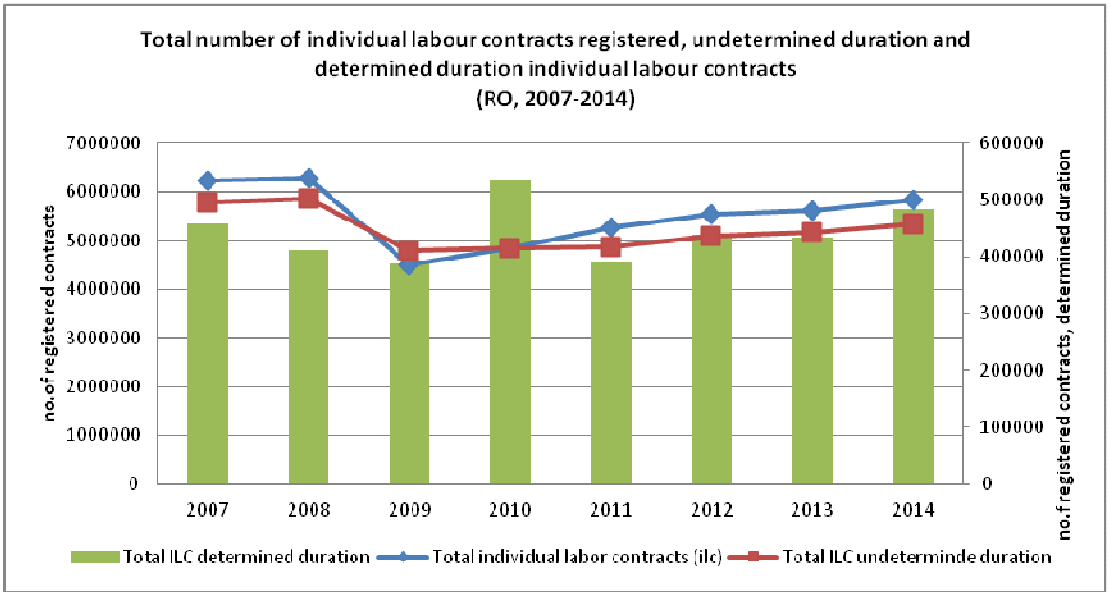

Source: Data of the Romanian Labour Inspection (at www.inspectiamuncii.ro) processed by Dr.CatalinGhinararu;

As against 2011, when a certain relaxation occurred with respect to the determined duration contracts, in the sense that the number of such successive contracts, an employer may conclude with its employees as well the maximum duration in months have been increased from two to three and respectively from 24 to 36 (in some cases, with proper justification, the completion of a project for example, even exceeding the limit of 36 months is allowed, which means that there is a limited flexibility with regard to duration but NOT with regard to the number of successive contracts), the number of determined duration contracts registered with the Labour Inspection has increased nevertheless by 23% which is quite significant although in absolute numbers this only means 94,924 contracts. As a share of the total number of individual labour contracts registered with the REVISAL the increase is only from 7.4% (2011) to the current 8.3% (a difference of only 0.9 percentage points) thus showing that the progress is rather limited.

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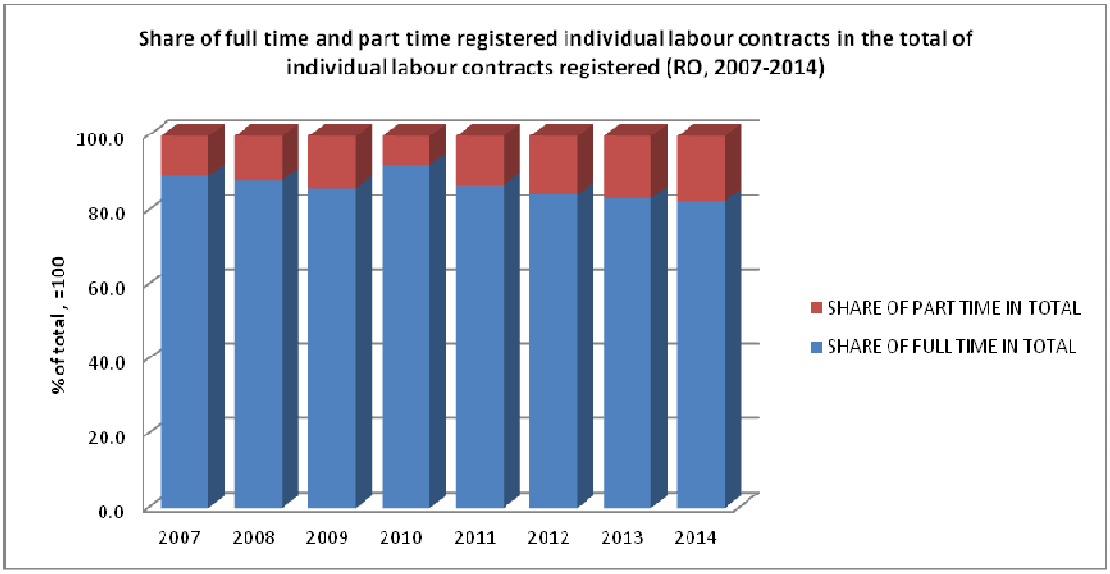
Chart no.3



Source: Data of the Romanian Labour Inspection (at www.inspectiamuncii.ro) processed by Dr.CatalinGhinararu;

According to the data of the National Institute of Statistics NIS[2] , which through its LFS records number of individuals as against the "number of individual labour contracts" recorded by the Labour Inspection through its REVISAL system, the number of part time workers, distinct therefore from employees per se, would be as of 2014 of 859932 (this means workers working less than 40 hours per week). This would make for a share of the total employment of 9.9% (2014).

Finally administrative data of the Labour Inspection show that the total number of part-time individual labour contracts, that is the sum of determined duration and undetermined duration part-time individual labour contracts, is of 1,020,527, or as a share of the total number of contracts 17.53%.

As for the daily labourers which since the adoption of a specific law in 2011, have their own special status, the administrative statistics of the Labour Inspection gives a figure of 12,651,047 entries into the national register of the daily labourers with 4,615,335 of these entries or 36.4% of the total being taken by agriculture which thus emerges as the sector of the national economy that made the largest use of the act thus also marking a significant progress in tackling widespread undeclared work. As against 2011, when the law has been adopted and first applied the number of entries has risen almost six times (from something more than 2 million entries to the current more than 12 million). Even back then, agriculture was the single most important user of this facility.

This brings us the most important type of "atypical work" in Romania, which makes practically for the distinctive feature of the Romanian labour market in the EU, i.e.: self-employment in agriculture in small

[2]Data are taken from the TEMPO-ONLINE data base of the National Institute of Statistics, available at www.insse.ro , via subscription;

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household production for their own final consumption farms (the so-called subsistence and semi subsistence farms). All in all and in accordance with NIS data as published in the Romanian Statistical Yearbook (2013 data) make for 1.3 million (53.3% of total employment in agriculture which at 2.5 million makes still for a staggering 29% of total employment, also 2014 data, NIS). To this, we have to add the around 990 thousand contributing family workers, 45% of which are women, and which together make for 92.9% of the total employment in Romania's agriculture or more than 2.3 million individuals. They have no labour contract, are covered by no statutory minimum salary legislation, have no coverage with respect to collective bargaining and are by law no obliged to contribute to any of the three major public social insurance schemes (i.e.: pensions, unemployment health). Their contribution may be however voluntary. They form the bulk of those daily workers in agriculture as they complement thus their low cash incomes. They represent the class of the poorest workers in Romania.

Adding together[3] the figures above, and taking into account the fact that other types of atypical work are not accepted or known by the Romanian law or are negligible in terms of numbers (e.g.: "members of the clergy"[4] as mentioned in the annex 1 of the ELLN report) as well as that most of the daily labourers (for which we may only approximate the number as what we do have is "number of entries" into their system of registration) we would come to a total of around 3 million persons (including the 2.3 million self-employed in agriculture and contributing family workers which make for Romania's most important "atypical" form of employment, although without any contract per se thus however not making it undeclared and, from here-on, the specificity of it) or as a share of total employment 35%. Taking however out the "atypical' employment in agriculture we would talk about roughly 0.8-0.9 million employees making thus around 9% of total employment and roughly 15% of the total number of salaried employees. Taking an even more restricted measure and referring just at the determined duration contract, which is the closest thing Romania has to "atypical' contracts, it would come down to no more than 480 thousand employees or 8.4% of their total number and as a share of total employment standing at 8.5 million (NIS figures, 2013), 5.6%.

[3]Aggreation of the figures belongs to the author. The author is aware however that this is just a „rough" exercise and that due to the many differences in the „substance" of the indicators further work has to be done so as to obtain a truly „consistent" aggrenation of atypical work in Romania and its overall dimensions;

[4]Mistakenly referred in the ANNEX as „clerical staff", clarification however via explanatory text; It has to mentioned however that in terms of their employment status there is no difference as against „regular" or typical employees (same taxes, same social contributions, same labour contract, etc);

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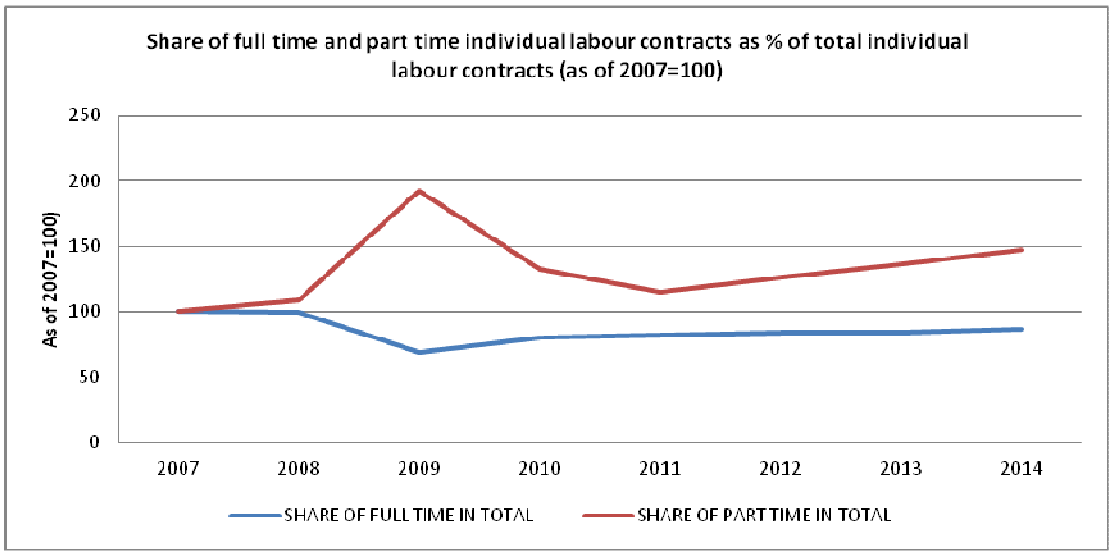
Chart no.4



Source: Data of the Romanian Labour Inspection (at www.inspectiamuncii.ro) processed by Dr.CatalinGhinararu;

3. Aggregation of jobs and contracts, the secondary activity regimes

The national regulatory regime allows to an employee, in accordance with the Labour Code, to cumulate any type of contracts, whether they are "typical" (regular, undetermined duration, full time contracts) or "atypical". In accordance with the same body of legislation (i.e.; the Labour Code, Law no.53/2003) an employee may have as many contracts as deemed necessary with one employer or with a multiple of employers provided, of course, that all other legal provisions are observed, including the one relating to the working time, legal holidays, resting time between working days as well as weekly resting time (48 consecutive hours). With regard to that there is no longer any limitation. Administrative data as provided by the Labour Inspection which maintains the REVISAL electronic register of the employees do not provide such data as they their focus is on the number of contracts and not the number of individuals. However, the LFS run by the National Institute of Statistics give us a pretty accurate measure by recording the number of individuals with a "secondary activity" which generally means a second job, a second contract be it with the same employer or with a different employer than the one with which the first job is held. According to the most recent data provided by the TEMPO-online database available at www.insse.ro (the official ON-LINE data base accessible on the official website of the National Institute of Statistics of Romania), the total number of such persons was of 165504 (2014). There is a drop of almost 30% as against 2011, the year when the Labour Code has been modified eliminating a previous constraint that limited the number of contracts with one and the same employer at two, which may be explained only by the effects of the crisis and the subsequentrecession which have thus reduced opportunities for a secondary activity both with the same employer as well as with a different one(s). The reduction is even sharper when compared to the last year before the crisis (2008) the drop as against the level of this year being of 45%. As

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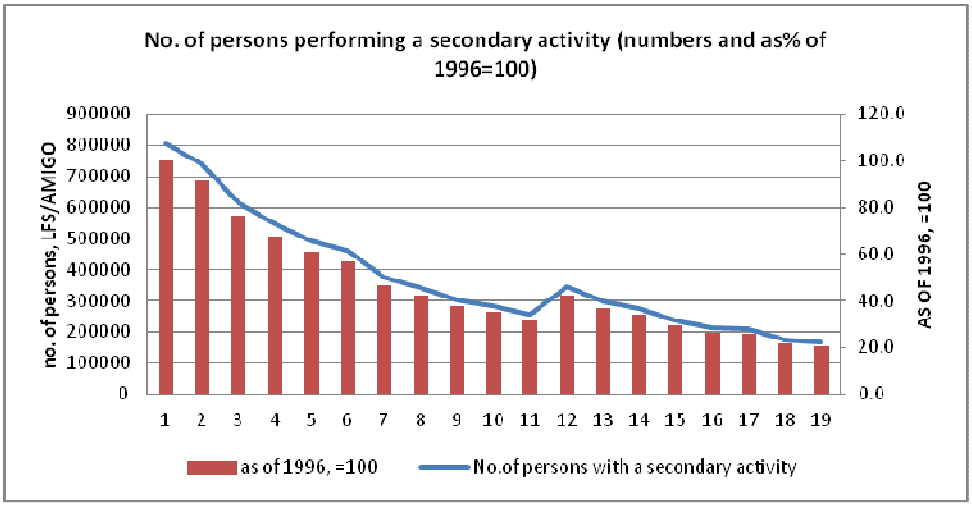
against the year when the Labour Code has been adopted thus replacing the old Labour Code inherited from the communist period and which was practically no longer in use except for minor parts (practically labour legislation had been replaced during the period in question, with the exception of collective bargaining, with civil law) the drop is of 51.6%. As against the first year for which data are available which is 1996, practically the "golden age" of the so-called "civil conventions" the reduction in persons with a secondary activity is a staggering 73% (!).

Chart no.5



Source: National Institute of Statistics of Romania data, TEMPO-ONLINE data base (available at www.insse.ro)[5], sourced from the RO-LFS/AMIGO, processed by Dr.C. Ghinararu;

This shows that the cause of the reduction for the whole of the period of almost 20 years is a gradual tightening of the labour legislation especially as with the adoption of the new Labour Code in 2003 and its subsequent amendments which have made it less and less possible for individuals to engage in such activities and more and more costly for employers to resort to them. The elimination of the "civil conventions" from the labour legislation with the adoption of the labour code in 2003 has practically closed the door for what was a cheap form of employment that brought benefits to employers in terms of reduced labour costs, as well as to employees in terms of additional income. It was nevertheless also a form of contribution if not tax evasion and thus practically a form of undeclared or rather under declared work. Nonetheless it also serves to illustrate the fact that the Labour Code increased the rigidity of the Romanian Labour Market and that practically the whole of the 13 years following 1990 were an "exceptional" period of highly law labour relations which must have played a role (still poorly studied) in the shielding of the adverse social and economic effects of the plan to market transition. The current number of persons with a secondary activity (i.e.: read job or contract) make for only 2.8% of the total number of registered labour

[5]Via individual, free subscription;

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contracts. As a share of the total employment, the percentage is only a tiny fraction, 1.9%. As a share of the total number of employees as recorded by the LFS their share is 2.8%. This serves to show that the overwhelming majority of salaried of dependent employees in Romania have only one labour contract. The ones having more than that are the exception and not the rule, thus again pointing to a rigidity of the labour legislation as well as to its rather more than prescriptive character.

4. Social security regimes for atypical contracts in Romania - the employer and the employee

There is no differentiation in the social security regime for any so-called atypical contracts existing in Romania. What actually would count in Romania as atypical work, is concentrated in the so-called part time work as well as in the determined duration contracts these being the solo types that are allowed by the Romanian legislation and which may be concluded anyway only for a certain very well specified in the Labour Code (law no.53/2003 with subsequent amendments) types of activities. Therefore the margin of manoeuvre of any employer and of any employee is to this avail highly limited by the existing legislation. Therefore, social security contributions that apply to workers hired on open-ended or undetermined duration contracts, as well as for workers on full time contracts applies equally to workers hired on contracts that are on determined duration or to workers hired on part-time contracts. Same contribution rates apply both for employers and employees for all of the three major mandatory social security contributions, i.e. public pensions, public health and the public unemployment insurance scheme. Also the same regime applies with regard to the contribution for the state pension scheme when it comes to the differentiation regarding working conditions (normal, arduous and very arduous). No facility is given for such contracts. With regard to taxation Romania applies a flat rate income tax of 16% as of 2005 which allows for no differentiation. Up to 2016, Jan 1st, licensed individual persons (persoana fizica autorizata-RO; as of 2015 there were 2810316 such licensed individuals, up by 71% as against 2005 (=100) when this form of organization first appeared) which is a form of activity that allows basically professionals to have a legal way of conducting and providing their services, using a very simple form of organization allowed for an exemption from the social insurance contribution (i.e.: the contribution to the public/state pension scheme) if the licensed persons was also an employee and therefore the contribution was paid for to the scheme in his capacity as an employee, irrespective of the type of dependent/salaried employment in which he or she was engaging (therefore irrespective if he or she was on a undetermined, determined, full time or part time labour contract). As of Jan.1st of this year, therefore very recently, this allowance has been scrapped and such persons are now obliged to pay social insurance contribution based on their declared income. The only facility they have, although it has to be said that this type does not fall under labour law regime, is that they are allowed to make an option for the payment of the full contribution rate of 25% (combined employer and employee, normal working conditions) or make an option for the payment of the sole employee share of the contribution rate of 10%, irrespective of working conditions (obvious enough penalty applies in this case with regard to the number of pension points accumulated by the respective persons, thus affecting its pension rights in the public system; full contribution continues to be paid on behalf of the person in question if he or she is dependent employee also). This generates odd situations, that result such persons pay practically contribution twice. To be noted also that they were also paying full contribution rate to the public health system irrespective of them being or not in the meantime

[6]Data from the National Office of the Register of Commerce of Romania/ Oficiul National al Registrului Comertului;

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dependent employees. There remains, however, the exemption from contribution to the unemployment insurance fund for such persons for which it is only an option (voluntary contribution as allowed by law no.76/2002 with subsequent amendments, the unemployment insurance act). The only advantage that may be derived from here by such a person maybe that from this year on, by paying more contribution to the state public pension scheme (provided of course that he or she is also a dependent employee) is that possibly, such an individual will accumulate a higher number of pension points which would have to result, a higher pension at retirement. The Romanian law still allows for a limited use of the so-called civil contracts also known commonly as "civil conventions". They are not covered by labour law and their use is now highly limited as they may be only employed in cases where purely "accidental" (ad-hoc) works or assignments have to be performed. With respect to taxation there is no facility. Health insurance however has to be paid. This rather odd measure which allows the levy of this contribution on practically every sort of income (even rent income earners have to pay it!) makes for a direct result of the parlous financial situation of the public health system where persistent deficits and payment arrears have accumulated hindering proper provision of the services. One has to note also as a Romanian peculiarity and given the ultra-large by European "standards" of the share of employment in agriculture which takes more than a quarter of total employment (around 2 million individuals, meaning self-employed and contributing family workers) that self-employed in the agriculture are not included by law in any of the mandatory social insurance systems. Accordingly they do not benefit, except for the case where they make voluntary contributions (all three major systems allow for this form). Some of them make use of this possibility.

Same social contributions and fiscal regime applies to apprenticeship, professional stage and social insertion contracts as they are viewed as being labour contracts and thus under the labour law[7].

5. Targeted fiscal advantages

No such thing exists in Romania. Atypical work contracts, fall under the same regime as the 'typical" ones. There are no fiscal advantages for employers, neither with respect to taxation nor with respect to social security contributions. All labour contracts are subject to the same regime. Exceptions are made only for those forms that do not fall under the labour law explicitly and which have been detailed in the paragraph above.

Subsidies are granted to the employers engaging in apprenticeship (in accordance with law no.279/2005 with subsequent amendments) or in professional stage in accordance with law no.335/2013 for the professional stage of higher education graduates, see here also previous EEPO paper on traineeships) as well as for those engaging in social insertion contracts under the provisions of the unemployment insurance act (law no.76/2002, the unemployment insurance act, with subsequent amendments). However there is no facility with respect to social contributions nor with respect to the fiscal regime. Subsidies are calculated taking into account the social reference indicator which has been fixed in 2008 at the value of RON 500 (EUR equiv. today = 112) and never indexed afterwards. Therefore the amounts are meagre and unattractive given that all employers have to comply with national minimum statutory salary regulations (currently at RON 1,050, to be raised at RON 1,250 as of May 1st of this year, 2016) for full time working day (8 hours). As most of the individual labour contracts, as it has been

[7]See also for that EEPO contributions-RO in the frame of the 2015-16 contract on the Youth Guarantee and traineeships;

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previously mentioned, are full time ones, it is more than visible that subsidies cover only a fraction of what employers have to pay an employee, which includes an employee on an apprenticeship contract or an employee on a professional stage contract, as they are also fully covered by minimum salary regulations. Therefore subsidies are not acting in this case as much of an incentive.

6. Bogus self-employment

There is no such definition and per se, there is no such phenomenon in Romania. Due to the highly restrictive character of the labour code, even the use of determined duration contracts or of the part-time contracts is rather limited. Also in the case of civil contracts due to the restrictions to their use, their numbers is now very low. Therefore, hardly one may talk of "bogus self-employment" as existing legislation does not permit it. It may be however that some of the "licensed individuals" (persoană fizică autorizată-RO) may, but only to a certain limited extent, be counted as "bogus self-employment" , although in this case one cannot talk about employment as this is not covered anyway by the labour law. It is therefore a form of service provision. There are not enough systematic studies to date on the phenomenon. The National Labour Research Institute is currently developing a research that aims precisely at the study of the atypical working arrangements on the Romanian labour market. It will also include a field investigation which may shed new light on the phenomenon. The study is financed from the National Research Programme and will take place throughout 2016-17[8]. A recent study on this has appeared under the aegis of the Swiss-Romanian Cooperation Programme, on which we will talk some more in the coming paragraphs.

Another form of "bogus self-employment" is the one related to individuals employed under authorship contracts a form that is frequent in mass media as well as in advertising, show business, translations etc. This is truly precarious and those so-called 'self-employed' workers were practically having no social security coverage until Jan.1st of 2016 when the payment of social security contribution (i.e.: contribution to the public pension scheme) became mandatory in their case also.

One could make an estimate basing on the number of the so-called "persoană fizică autorizată" (licensed professional/licensed individual professional), but it would be difficult to ascribe a share of those being actually "dependent" on a certain employer (a form that would mirror the Italian case of the "indipendente-dipendente", or the "independent-dependent" worker) and thus being in a sort of "bogus self-employment" state. Therefore we would refrain from making any more precise, numerically substantiated estimate here, although we would dare to say that it may be that in between one third and one half of those working in this form (a grand total of 281031 as of 2015) could be classified as such[9]. It has to be said however that the statute of these persons can hardly be considered as precarious as in most of the instances they are also involved in salaried employment. Therefore, this is for them rather a form of "secondary activity" or "complementary activity". This speaks however rather significantly on the level of

[8]The study is directed by the undersigned Dr. Catalin Ghinararu and is financed from the funds of the National Research, Development and Innovation Plan (PNCDI-Planul National de Cercetare Dezvoltare si Inovare, Program NUCLEU 2016-18), of the National Authority for Scientific Research and Innovation of the Romanian Government (ANCSI);

[9]This is an own estimate of the author; it should be taken however with reservations as the difficulty in estimating the scale of this phenomenon is more than considerable;

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incomes a person may derive from on job in Romania, providing also an explanation for the high number of working hours recorded per worker. In a nutshell, one would not be able, for the time being at least, to give any accurate estimate of the phenomenon for Romania.

An explorative study undertaken by the sociologist Stefan Guga[10] , recently presented to the public under the aegis of the Swiss-Romanian Cooperation Programme, draws the attention to the situation of several categories which may be labelled as "bogus self-employed", e.g.: the literary translators as well as persons working under so-called authorship right contracts, which are nevertheless not acknowledged per se "labour contracts" but which according to the Fiscal Code (2016, 2015 amendments in force as of Jan.1st 2016 will have to pay mandatory contributions to the state (public) pension fund (i.e.; also known as "social security contribution") while being still exempted from contributions to the public health insurance scheme as well as from the one to the unemployment insurance scheme. This type of what could be called "bogus self-employment" is especially widespread amongst mass media professionals, journalists, translators and interpreters and others such categories although effective statistics are still rather incongruous. The study makes it clear that since the beginning of the crisis there is a marked increase in the resort of employers to whatever the Romanian law allows as "atypical work contracts". However the study fails to reveal what would be the actual "advantages" or "disadvantages" that both the employer as well as the employee would draw from this resort given the prescriptive character of the Romanian labour law. The only clear case is the one of the "persoană fizică autorizată" (licensed professional/licensed individual professional) where it is clear that advantages can be drawn only by very few well-placed workers, the others being placed at the mercy of their employers; same goes for persons employed under authorship contracts.

7. Collective bargaining coverage and planned reforms of atypical work regimes in Romania

The study that has been mentioned before and which will concentrate on all types of atypical contracts (see paragraph no. 5) will also try to make an assessment of this phenomenon. However, to date there is no planned reform as the phenomenon is little known and there are no assessments of substance that have been performed.

The Romanian law makes no particular distinction with regard to the rights of the employees in this respect. The Labour code clearly specifies that both workers on determined duration contracts as well as those on part-time contracts as well as temporary work agency workers are equally covered by collective agreements, with no discrimination allowed whatsoever. Collective agreements are mandatory, according to the Labour Code, for all companies employing more than 20 employees which make practically only small establishments exempted from the rule. The existence of a union or its non-existence is irrelevant to the purpose as employees are entitled to elect their representatives which negotiate with employers. Up to the modification of the Labour Code in March of 2011 (enforced as of May 1st 2011) the conclusion of a national collective agreement was mandatory. As of that date this obligation has been eliminated and national collective bargaining has been abolished in accordance with the Social Dialogue law adopted also in 2011 (law no.62/2011). Accordingly, the last national collective agreement has been the one of 2011.

[10]Stefan Guga: „Munca Atipica in Romania de la izbucnirea crizei. O perspectiva de ansamblu"/ „Atypical Work in Romania since the beginning of the crisis; An overall perspective", the Swiss-Romanian Cooperation Programme, NEXT PUBLSIHING, Bucharest-RO, 2016.

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Branch collective agreements have been replaced with so-called sector collective agreements, but these may only be concluded if there are representative organizations for the sector on both sides (employers and unions). In most cases, employers have tended to disband their unions so as to avoid collective bargaining. However, if there are such accords, the coverage is equal for all employees. As said before, collective agreements remain the legal rule for all companies, except small establishments. Even under the previous national collective bargaining regime, there were no differentiations made between workers on undetermined duration, full time contracts and workers on either determined duration of part-time contracts, as labour law simply did not and does not make any such allowance; it actually prohibits it! Therefore union membership, as much as it still subsists after the abrogation of national collective bargaining provisions does not make any distinction between employees on "atypical" work arrangements and those on "typical" or conventional work arrangements. Obvious enough those working as licensed individuals (persoană fizică autorizată-RO) or those providing services under a civil contract are not covered in any way by collective agreements, nor do they have anything to do with unions as these types of work organization do not fall under labour law; however, these persons are in some cases members of various professional bodies which, in some extent, may also act in defence of their rights (e.g.; the CECCAR- the professional organization of licensed accountants and expert accountants, the chamber of financial auditors, the order of the architects etc) . Due to the fact that legally there is no distinction between the rights of the workers (with reference here only to relations under the labour law) according to the type of contract, there are also no statistics with regard to the number or share of those workers as part of broad union membership.

ICT and digital workers, where they exist, have actually the same rights as other workers, if their relationship with an employer falls under the provisions of a labour contract. They are also equally covered by collective , if their relationship with the respective employer is regulated by a labour contract. If different, they are not and cannot be covered as the relationship is considered to be outside labour law.

Apprentices as well as workers under a professional stage contract (law no.335/2013 for the professional stage of higher education graduates; see also previous EEPO contribution on traineeships) enjoy the same rights as all other workers with no difference being made by the law as to their case. Their contracts are considered as labour contracts and they fall to this respect under the labour law, fully. They are therefore fully covered by collective agreements, wherever these exist. Same goes for workers under social insertion contracts, if such employers have collective agreements in place.

Temporary agency workers may also be covered under collective labour agreements as labour law applies equally to them with no distinction. This however depends on the size of the agency. A common way to avoid complying with the rule established by the Labour Code is therefore to keep the number of staff per enterprise below the limit of 20. This is a tactic that is also more generally used by many private companies (of the small and medium ones) which keep their personnel number below this figure to avoid the legal obligation. At times, when the activity develops, a new firm is established and some of the personnel have their contracts' with the old company terminated (by the "mutual consent of the parties" which makes it perfectly legal) with a new individual labour contract concluded with the newly established entity. Thus exceeding the minimum threshold for collective labour agreement is avoided. Such practices are combining now with another practice of employers which is that of disbanding their branch or sector representative organizations so as to avoid concluding "sector' collective labour agreements as the law only permits their conclusion if both sides of the social partnership are "representative" or in other words both

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the side of the employers and the side of the employees have organizations that are representative for the sector where the collective agreement has to be concluded. If one part does not possess such a vehicle, the conclusion of such an agreement is impossible. Accordingly, a weakening of trade unions which thus lose their "raison d'etre" at sector level given even more leverage to employers which are only compelled to conclude enterprise agreements and therefore may only deal with organizations at enterprise level which they can easily control. This practice affects since 2011 (the year when the mandatory character of the national collective agreement has been eliminated with the sector agreements being made dependent on the existence of "representative' organizations of both parties in the social dialogue for a respective "sector" of economic activity) all workers irrespective if they are employed on "typical" or "atypical contracts".

8. Conclusion

The concluding remarks of our study are given below.

- What actually would count in Romania as atypical work is concentrated in the so-called part time work as well as in the determined duration contracts these being the solo types that are allowed by the Romanian legislation and which may be concluded anyway only for a certain very well specified in the Labour Code (law no.53/2003 with subsequent amendments) types of activities. Therefore the margin of manoeuvre of any employer and of any employee is to this avail highly limited by the existing legislation. A possible explanation of the limited number of such contracts is lack of fiscal or social contribution facilities associated with this type of contractual arrangements.
- The most important type of "atypical work" in Romania, which makes our country different from the other EU countries, is self-employment in agriculture, in small household production farms, the so-called subsistence and semi-subsistence farms. To this are added the contributing family workers.
- The overwhelming majority of salaried employees in Romania have only one labour contract and the ones having more than that are the exception, not the rule. This comes to demonstrate again the rigidity of the Romanian labour legislation.
- In Romania there is no definition of bogus self-employment and the existing legislation does not permit it. However, a form of this is "licensed individual" ("persoană fizică autorizată") and the one related to the individuals that are employed under authorship contracts (in mass media, advertising, translations, etc.)

Knowing the true extent of the phenomenon of atypical work, one can achieve an adequate protection of such workers, under a suitable regulatory framework and on the basis of an effective social dialogue.

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