



Atypical Contracts and Crossborder European Social Security Obligations and Rights

INTRODUCTION Over the last decade, there has been a widespread increase in the use of fixed-term and part-time contracts, temporary staff, para-subordinates, false self-employment, on-call employment etc. which have radically changed the possibilities of entering the job market, particularly for young people, who have been defined as the “precarious generation”. The principal argument used to justify the extended use of this form of contract has been the employability and creation of new jobs which act as a bridge towards more stable or “standard” employment. This argument should not mislead us. Like young people, many older workers are also forced to accept atypical and precarious employment due to the financial crisis, company restructuring and the closure of many establishments.

Alongside the increasing fragmentation of national labour markets, new forms of mobility are emerging in Europe and thus intra-European migratory trends are also changing. Today, the new circular and transitory character of migration means that a mobile worker will have to deal with many different national social security systems throughout his life, each with its own regulations on “flexibility” and with its own conditions for accessibility to benefits.

What happens if a mobile European worker is hired on an atypical contract? What protection is he/she guaranteed under the EU Coordination Rules?

Pursuit of the strategy of Flexicurity, deregulation of national labour markets, a lack of representation and protection of trade union rights for “atypical” workers, have created many different types of employment and contracts which often do not exist in other member states. Recognizing periods of insurance, employment or other paid or self-employed activities acquired under the legislation of another member state so as to aggregate the total, can only be achieved if such periods of employment are also taken into account by the legislation of the new member state (Art. 61 Reg. 883/2004).

The rigidity of welfare systems has not allowed flexibility to be accompanied by the security which is necessary for new forms of atypical employment. The measures implemented in almost all European countries in fact provide for forms of income support, which almost amount to charity. Mixed systems providing insurance and social assistance benefits, based on tax contributions and on the principle of general solidarity, are not part of the scope of the new coordination of social security systems. This means unequal treatment for the “atypical” worker in the member state where he/she works, and a difference in treatment compared to “standard” worker in his/her home country.

The Coordination rules designed for workers in standard employment, in fact exclude many “atypical” workers from the objectives they themselves have set, i.e. coverage against the risk of losing social entitlements if a citizen moves freely within the European Union, or rather, within the European Single Market, thus exercising his/her right to freedom of movement, considered to be fundamental to the creation of the Union.

The trade union bodies (INCA and others) are best positioned to know about and to understand this kind of issue. Through their legal and social services, they already play a key role in enhancing information and access to entitlements for this particular category of worker. However, given that this is a new and widespread phenomenon, even they are unaware of many situations and specific cases.

The ACCESSOR Project will have a significant impact on the situation we have just described: by improving knowledge and the competences of its own operators and social and legal advisors, the partner organizations will be able to provide a better and more relevant information service, and better protection and advice to those people employed with non-standard contracts and who want, or who are forced to exercise their right to free movement, by moving to another EU country making sure they do not lose their social security benefits.

PROJECT PROMOTER Inca-Cgil UK **INCA PARTNERS** BE, FR, DE, IT, SI, ES, SE **TRADE UNIONS PARTNERS** Tuc (UK), Fgtb (BE), Dgb (DE), Cgil (IT), Ccoo (ES), Etuc (UE)

GENERAL OBJECTIVE Examine how EU rules on the coordination of social security systems function for atypical workers

SPECIFIC OBJECTIVES Examine the specific information and protection needs of atypical workers under the current EU regulations. Develop a transnational network of trade union advisers. Enhance trade union information and advisory services on the coordination of social security systems and the free movement of citizens, specifically for atypical work.

PROBLEM DEFINITION The coordination of social security systems in the EU member states guarantees individual rights to social security of all persons moving within the Community. These European regulations were created during periods of industrial development, when employment was, by definition, “standard”. However, in the course of the last twenty years, new forms of “atypical” employment have emerged and national welfare systems have changed, creating new forms of protection which are also often “atypical”.

What exactly does “atypical employment” mean? The concept of “atypical work” is generally compared against “standard work, standard work being a socially secure, full-time job of unlimited duration, able to guarantee regular income and protected by the national social security system, particularly with respect to pensions, ill-health, work-related injuries and unemployment. Atypical work therefore encompasses all non-full-time, non-permanent work, with few social benefits: involuntary part-time work, evening work, weekend work, involuntary fixed-term work, teleworking, home working, temporary agency work, work for several employers, contract work, dependant self-employment, (or false self-employment), intermittent work, zero hour work, work with no written contract etc.

Questions to be answered Are atypical workers protected by national social security systems? If yes, how these entitlements fit into the scope of EU rules for coordination and the cross-border movement of people?

The specific issues to be tackled by this project are for example: in your country, how many and which categories of employment contract could be considered as being “atypical” in terms of the standards of the national labour market? Are these atypical employment contracts protected from the main social risks, such as old age, ill-health, maternity or paternity leave, death, disablement and unemployment? If this is the case, do the entitlements cover all employment periods and can the benefits be transferred to other EU countries (pension and unemployment benefit in particular)? If this is the case, is it under the same conditions as workers on standard contracts? If not, what exactly are the rules that apply to these workers? What are the “grey areas” of the coordination rules? How many workers on atypical contracts in your country are not fully covered by the Regulations? If the figure is not available, is it possible to make an estimate? What are the specific needs of these workers? What kind of individual protection and information should we give them?

WORK PLAN The project will have four main Work Packages: WP1 Analysis (December 2012 / June 2013), WP2 Training a team of experts (July 2013 / Sept. 2013), WP3 Training/Information (Oct 2013 / January 2014) WP4 Conclusion (Feb 2014 / Mar 2014)

2012	2013												2014		
12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3
Analysis							Training a team of experts			Training/Information			Conclusion		

RESULTS At the end of the WP1, each country will submit a national report. Each report will be drafted in the language of the country and then translated into English (approx. 20 pages for each report). The comparative summary of national research reports will be used as material for the next phase of the project (training). At the end of the WP2, each partner country will have at least one expert on the exportability of rights of “atypical” workers. He/she will in turn be able to inform and train other operators and trade union advisors (WP3). Moreover, during the training session, participants and trainers will work together to develop two products, a service providing information and individual protection especially for “atypical” mobile workers, and a training and information program to be disseminated in partner countries in the future. At the end of the WP3, a total of 9 national training activities will be carried out, over a total of 18 days and for a minimum of 90 participants, operators and trade union advisors. At the end of the project, the 8 national research reports, the general summary report and the training programs with their attachments and instruments will be submitted and disseminated to the partner organizations to consolidate the functioning of their training, information, and protection and advisory services.

METHOD Examination of the contracts will first be done at national level. In each partner country the local INCA association, in cooperation with its trade union partner will: carry out a survey of the main contracts considered as “atypical” with respect to labour legislation and national employment practices, make a national estimate of the number of people in non-standard employment, provide a description of the existing national social protection provisions for workers in non-standard employment, in their own country, make an in-depth examination of some “atypical” contracts (min. 3) to see whether the four basic principles of the coordination of social security systems apply i.e. the specific-nature of the legislation, equal treatment, accumulation of all periods of employment and exportability of benefits.

The results of the different national analyses will subsequently be compared and summarized in a single transnational report, drafted by the senior researcher, which will highlight any personal or material ‘grey areas’ in EU regulations on “atypical work”. A team of experts will be established on the basis of the results of a previous analysis and will be used as information and training material. Training and information of the other operators and trade union advisors at the national level, will be executed by the same experts.

TO FIND OUT MORE

Working Lives Research Institute and London Metropolitan University, *Study on Precarious work and social rights*, 2012
<http://csdle.lex.unict.it/docs/labourweb/Study-on-Precarious-work-and-social-rights/3542.aspx>

Eurofound, *Very atypical work: Exploratory analysis of fourth European Working Conditions Survey - Background paper*, 2010
www.eurofound.europa.eu/publications/htmlfiles/ef1010.htm

Eurofound, *Atypical work (definition)*, 2009
www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/atypicalwork.htm

Institute for Employment Studies and Eurofound, *Flexible forms of work: ‘very atypical’ contractual arrangements*, 2010
www.eurofound.europa.eu/ewco/studies/tn0812019s/tn0812019s.htm

Work PlanBeginning: **10/12/2012**End: **10/03/2014**Duration: **15 months**

Date	Place	Activity	Participants/Body involved
WP 1 DECEMBER 2012 - JUNE 2013			
December 10, 2012	London	Preparation of the International Workshop and the 1 st steering committee meeting	Promoter
January 10-11, 2013	London	International workshop - 1 st steering committee	All partners + experts
February/June 2013	In all countries involved	Realisation of the national studies on atypical contracts	Steering group, experts, staff and all partners
WP 2 JULY 2013 - SEPTEMBER 2013			
July 4-5, 2013	Barcelona	2 nd steering committee meeting	Steering group, experts
July/August 2013	In all countries involved	Evaluation of the study's results and preparation of the syntheses. Preparation of training materials	Steering group, experts
September 10 – 11, 2013	Brussels	3 rd steering committee meeting	Steering group, experts
September 24 – 26, 2013	London	Training course	INCA and Trade union operators with experts
WP 3 OCTOBER 2013 - JANUARY 2014			
October 2013		Preparation of materials for training national workshops	Steering group, experts
November 2013/January 2014	In all countries involved	8 National workshops (for details, see the table below)	INCA and Trade union operators with experts
WP 4 FEBRUARY 2014 - MARCH 2014			
February 6 - 7, 2014	Rome	European Conference	All the partners, experts
February 27, 2014	London	Final evaluation meeting	Steering group, experts
February/March 10, 2014		Comments and exchanges on the outcomes of the project. Preparation of the final report. Publication of the final results on web sites.	All the partners, experts

Schedule of national Workshops (WP3)

Experts formed during WP2 will train and inform other Inca operators and trade union advisers

Date	Place	Country	Participants	Language	Travels /Stays/meals
	Brussels	BE	8		8 pp x 2 days
Nov 2013	Paris	FR	10		7 pp x 2 days
	Bologna	IT (North)	12		10 pp x 2 days
	London	UK	10		10 pp x 2 days
Dec 2013	Koper	SI	6	Local	6 pp x 2 days
	Frankfurt	DE	10		6 pp x 2 days
	Stockholm	SE	4		4 pp x 2 days
Jan 2014	Barcelona	ES	12		12 pp x 2 days
	Bari	IT (South)	12		10 pp x 2 days