

I.R.4TEMP

The Collective Bargaining and Representativeness of temporary workers in Europe.
*Development and reinforcement of Industrial Relations Systems
in response to changes in the European labour market*
VS/2014/0543

WP2 – DESK RESEARCH

OVERVIEW REPORT

PART TWO

CHARACTERISTICS OF TEMPORARY WORK

FYR MACEDONIA	GERMANY	ITALY	PORTUGAL	SPAIN
	<p>Temporary work in Germany has been defined for the study as consisting of following contract types or worker statuses: A) fixed-term contracts, B) temporary agency work, C) marginal employment, and D) freelance worker/employee-like workers. Temporary work in Germany increasingly started to spread from the mid 1980s with the attempt to deregulate the labour market (Employment promotion act (Beschäftigungsförderungsgesetz) from 26.04.1985). Since, the percentage of such contracts has steadily increased from 10.1 per cent in 1991 to nearly 14.8 per cent in 2008, just to drop to 13.1 per cent in 2014 (Eurostat 2014).</p> <p>Although Germany's industrial relations system is generally viewed as a good practice for ensuring labour protection rights, there are still loopholes in the regulation of temporary and atypical employment, why the current coalition between CDU (Christian Democratic Union of Germany), CSU (Christian Social Union in Bavaria) and SPD (Social Democratic Party of Germany) have put the fight against malpractice of temporary agency work and service contracts on their agenda (see CDU, CSU, & SPD. (2013). Deutschlands Zukunft gestalten. Koalitionsvertrag zwischen CDU, CSU und SPD. 18. Legislaturperiode.)</p>		<p>Portugal has been, over the years, the third country in EU with the highest level of temporary work, only surpassed by Poland and Spain, with a variation between 19.4% and 22.8% (2005-2014). In 2013 and 2014 the percentage of temporary work stood at 21.4%. Temporary employment among young people increased in these two years reaching 61.5% in 2013 and 63.0% in 2014 (Eurostat).</p> <p>According to official domestic data source (Quadros de Pessoal) fixed term contracts with determined duration represented, in 2013, 75% of all temporary contracts, while fixed term contracts with undetermined duration represented around 12%, temporary agency work around 5%, and all the remaining temporary forms of contract represented 7%. Among the forms of temporary work which have been increasing, since 2013, is relevant to mention the internships. The Bank of Portugal estimated that in the third quarter 2014, 6 of the 10 new jobs created were in fact internships (Economic Bulletin, 2014).</p> <p>The working conditions under temporary work have been worsening in particular regarding wages. The recent study World Employment Social Outlook (ILO, 2015) estimated that temporary workers in Portugal receive in average 60% of the average wage of permanent workers.</p> <p>Therefore it is possible to conclude that the persistence of high levels of temporary work and the increase of temporary employment of young people have been followed by the degradation of labour conditions of temporary workers.</p>	<p>Temporary employment in Spain is characterised by its comparatively high levels, the fragmentation in the types of contracts (more than 26) as well as the its asymmetric incidence across groups of workers and sectors. In particular, temporary employment is more frequent among women and young people, though the incidence of temporary employment is increasing among older groups. The number of workers with temporary contracts started to increase in 1984, thanks to a labour law that relaxed the principle of causality in hiring employees under temporary contracts. Since then, temporary employment has exhibited strong resilience. More recently, higher unemployment in the context of the crisis has been accompanied by deterioration in working conditions for those employed. The main source of precariousness in the Spanish labour market, and particularly young people, is the high incidence of temporary employment. The temporary employment rate in Spain has remained stable between 30-35% of total employees in the economy since the early 1990s. However, the temporary employment rate for young workers is significantly above the 35%. Thus in the case of the 25-29 age group, it fluctuates around 40-45%. The economic crisis was accompanied by a decrease in temporary employment rate for all age groups. This was due to the fact that precisely those with a temporary contract will be the first ones in leaving the labour market in case of economic downturn. This is confirmed by the fact that by 2010, in spite of increasing unemployment, the temporary employment rate started to grow again for the younger age groups, though it has maintained a slow but decreasing trend for the economy as a whole.</p>

STATUTORY DEFINITION OF TEMPORARY WORK				
FYR MACEDONIA	GERMANY	ITALY	PORTUGAL	SPAIN
In RM there are legal definitions for temporary work	No		No	No

IS THIS THE SAME AS THE EUROSTAT DEFINITION?				
FYR MACEDONIA	GERMANY	ITALY	PORTUGAL	SPAIN
in RM there are special definitions for every type of temporary work	No		Not in the sense of an encompassing definition, but there are specific statutory definitions for the different types of contracts that are not open-ended and which are included in the Eurostat definition.	

TYPES OF EMPLOYMENT CONTRACTS/STATUSES ASSOCIATED WITH TEMPORARY WORKERS				
FYR MACEDONIA	GERMANY	ITALY	PORTUGAL	SPAIN
<ul style="list-style-type: none"> A) Employment contract with the Agency for temporary work B) Employment contract with definite period of time C) Season work D) Employment contract as apprentice E) Probation work F) Voluntary service G) Employment contract for domestic workers H) Business employment contracts (managerial contracts) I) Special contracts 	<ul style="list-style-type: none"> A) fixed-term contracts B) marginal employment D) temporary agency work E) Freelance worker/employee-like worker 	<ul style="list-style-type: none"> A) Fixed-term employment (lavoro a tempo determinato) B) Temporary agency work (lavoro somministrato) C) Seasonal work (lavoro stagionale) D) Casual work (lavoro occasionale accessorio) E) Project work and 'continuous and coordinated cooperation' contracts – formally self-employment (lavoro a progetto and collaborazioni coordinate e continuative) 	<ul style="list-style-type: none"> A) Fixed-term employment contract (FTEC) with determined duration (contrato de trabalho com termo certo) or with undetermined duration (contrato de trabalho com termo incerto); B) Temporary employment contract (TEC) with determined duration (contrato de trabalho temporário a termo certo) or with undetermined duration (contrato de trabalho temporário a termo incerto); C) Contract under 'service commission' (TUSC) with determined duration (contrato de trabalho em comissão de serviço a termo certo) or with undetermined duration (contrato de trabalho em comissão de serviço a termo incerto); D) Intermittent employment contract (IEC) (contrato de trabalho intermitente); E) Telework employment contract (TIwEC) with determined duration (contrato de teletrabalho a termo certo) or with undetermined duration (contrato de teletrabalho a termo incerto); F) Fixed-term contract with very short duration (FTCVsD) (contrato de trabalho de muito curta duração); G) Internship contract (IC) (contrato de estágio profissional - estágios emprego). 	<ul style="list-style-type: none"> A) Contract for a specific project or service or Project-based contract (Contrato de Obra o Servicio Determinado) B) Fixed-term contract for production reasons (Eventual por Circunstancias de la Producción) C) Provisional or Substitution contract (Contrato de Interinidad) D) First Job Youth Contract (Contrato de Primer Empleo Joven) E) Temporary contract for workers in risk of social exclusion (Contrato Temporal para Trabajadores en Situación de Exclusión Social) F) Relief Contract (Contrato Temporal de Relevó)

BRIEF DESCRIPTION OF THE MAIN FEATURES OF EACH CONTRACTUAL RELATIONSHIP

FYR MACEDONIA	GERMANY	ITALY	PORTUGAL	SPAIN
<p>Basic features of the agreements regulating temporary work in RM:</p> <p>A) Temporary employment are made by the agency for temporary employment on the basis of the previously concluded agreement for ceding an employee, between the temporary employment agency and another beneficiary employer and employment contract concluded between the temporary employment agency and the employee who is being ceded to another employer beneficiary. The temporary agency worker is a worker with an employment contract with a temporary employment agency who has the ability to be granted a temporary job with employer-beneficiary working under his supervision and guidance.</p> <p>The agency for temporary employment on a contract basis for deviation between the agency worker and another employer may cede an employee to another employer for temporary work in case of:</p> <ol style="list-style-type: none"> 1) replacement of temporarily absent employee; 2) temporarily increased workload; 3) seasonal work; 4) work on a project; 5) specific matters that are not part of the main activity of the employer beneficiary 6) Unpredictable short-term actions that arise in the performance of the main activity of the employer-beneficiary. <p>Agreement on transferring the employee to perform the same temporary work can be concluded while the need exists, but not longer than one year.</p> <p>The temporary employment agency must not cede an employee to perform the same work for the same employer without disruption or interruption longer than a year.</p> <p>These agreements are being regulated by the Law on Temporary Employment Agencies (Adopted in 2006)</p> <p>B) employment contract for a definite period of time An employment contract may be concluded for a definite period of time to perform the same work, with or without interruption to five years. The employment contract for a definite period of time to replace the temporarily absent employee may be concluded until the return of the temporarily absent worker. (Regulated by the Labour Law – 2005)</p> <p>C) Seasonal work The employee with an employment contract for a definite period of time performs seasonal work. The seasonal work represents a work which due to the climate or natural conditions is not executed during the</p>	<p>A) fixed-term contracts Part-time and fixed-term employment act (Teilzeit- und Befristungsgesetz - TzBfG) from 21.12.2000 (BGBl. I S. 1966); Act on fixed-term contracts in science (Wissenschaftszeitvertragsgesetz - WissZeitVG) from 12.04.2007 (BGBl. I S. 506) The concept of temporary workers worker is legally defined in Germany in Art. 3 of TzBfG. Accordingly, there is a fixed-term contract for employees with a limited duration of employment. The basic forms of temporary employment are the termination by date and by scope (without and with objective reason). While the end of the contract is defined by the occurrence of a certain event in the contractual agreement by scope, the termination by date of a contract is determined by a calendar date.</p> <p>In accordance with Art. 21 of TzBfG, a conditional employment contract might exists as well. In this case the objective reason for the resolution is listed, which is leading to termination of the contract without a notice of dismissal.</p> <p>In the case of fixed-term contracts with an objective reason, the legislator names non-exhaustive eight conditions for concluding a contract (e.g. after apprenticeship or probation) (Art. 14(1)). Without an objective reason, fixed-term contracts may be of up to two years duration and renewed up to three times; in business start-ups the initial duration may take up to four years. (Art. 14(2) TzBfG) For persons over 52 this may be limited to five years. (Art. 14(3) TzBfG) Over 58 years age, there is no need for an objective reason.</p> <p>According to the Act on fixed-term contracts in science, contracts with scientific or artistic personnel of public educational institutions are limited to six years in general and to nine years in health care (for certain domains collective agreements may apply). (Art. 1(1), Art. 2(1) WissZeitVG)</p> <p>B) marginal employment (geringfügige Beschäftigung/kurzzeitige Beschäftigung) Social Security Code (Sozialgesetzbuch - SGB) IV Marginal employment according to Art. 8(1) no. 1 SGB IV is a special form of part-time work. It is a short-term employment without social security contributions according to Art. 8(1) no. 2 SGB IV. In accordance with Art. 115 SGB IV, the maximum amount of work stays within three months or 70 working days within a year (valid for the period from 01.01.2015 until 31.12.2018), or if the amount of salary if it is below 450 Euro, the so-called "mini-jobs". An example where the former type of this contract comes into practice is e.g. work in private households.</p>	<p>A) Fixed-term employment (lavoro a tempo determinato): legislative decree no. 368 of 6 September 2001 and subsequent amendments B) Temporary agency work (lavoro somministrato): legislative decree no. 276 of 10 September 2003, Art. 20-28, and subsequent amendments C) Seasonal work (lavoro stagionale): legislative decree no. 368 of 6 September 2001 and subsequent amendments; Decree of the President of the Republic no. 1525 of 7 October 1963 D) Casual work (lavoro occasionale accessorio): legislative decree no. 276 of 10 September 2003, Art. 70-74, and subsequent amendments E) Project work and 'continuous and coordinated cooperation' contracts – formally self-employment (lavoro a progetto e collaborazioni coordinate e continuative): legislative decree no. 276 of 10 September 2003, Art. 61-69bis, and subsequent amendments</p>	<p>A) Fixed-term employment contract (FTEC) - Law 7/2009, Law 3/2013 and Law 76/2013. Admissibility FTEC's aim only to meet temporary needs and must cease as soon as those needs are satisfied (Par. 1, Art. 140, Law 7/2009). The specific situations in which this type of contract is allowed are described in Table A (Att. 1). Duration and renewal Maximum number of successive FTEC's (first contract plus renewals and/or prolongations): This type of contract may be renewed up to three times (Law 7/2009, Art. 148, Par. 1), which means that the maximum number of successive FTEC's is 4. However, Law 3/2012 defined an exceptional renewal regime, allowing two additional renewals, when FTEC's have reached the maximum limit of duration established; and Law 76/2013 continued its implementation, which means that since 2012 the maximum number of successive FTEC's allowed increased up to six. Maximum cumulated duration FTEC's (Law 7/2009, Art. 148): 18 months, when involving a person in search of a first job; two years, in the other cases established in Par. 4 of Art. 140; and three years, in all other cases. However, for FTEC's with undetermined duration, the maximum duration is six years. Moreover, the exceptional renewal regime set up by Law 3/2012 defined that the total duration of exceptional renewals could not exceed 18 months; while Law 76/2013 defined 12 months. Conversion of FTEC's into opened-ended contracts: Such conversion occurs when the limits of their duration or number of renewals set up by law are exceeded (Law 7/2009, Art. 147). This applies also to the exceptional renewal regime (Law 76/2013, Art. 3). B) Temporary employment contract (TEC) – Arts. 172 to 182 (Law 7/2009). Like fixed-term contracts, this type of contract comprise only temporary needs but they are defined having into consideration the types of work for which temporary work agency (TWA) employment applies. Admissibility TEC's are allowed (Art. 175, Law 7/2009) in the situations referred to in Par. 2 of Art. 140 (see A), and in the following situations: <ul style="list-style-type: none"> • Job vacancy during a recruitment process for its filling; • Intermittent labour needs, determined by fluctuation of the activity during days or parts of the day, provided that the use does not exceed, on a weekly basis, half the normal work hours typically undergone at the user; • Intermittent need to provide direct family support, of social nature, during days or parts of the day; </p>	<p>A) Contract for a specific project / service or Project-based contract: Article 15 of Royal Decree Law 1/1995 (developed by Royal Decree 2720/1998 and later amended by Law 35/2010). Collective agreements will identify those jobs and/or activities that may fall under this category. The duration of the contract can be extended through collective bargaining for 12 extra months.</p> <p>B) Fixed-term contract for production reasons: Article 15 of Law 8/1980 of Workers' Statute. Amended by: Law 35/2010, Law 3/2012 and Law 11/2013. Both sector-level and company level collective agreements can modify the maximum duration of the contract as well as those periods of the year when these contracts can be used.</p> <p>C) Provisional or Substitution contract: Article 15 of Law 8/1980 of Workers' Statute. Amended by: Royal Decree Law 2720/98 and Royal Decree 1251/2001.</p> <p>D) First Job Youth Contract: Law 43/2006 and Law 11/2013. Collective agreements can regulate the duration of the contract between 6 and 12 months.</p> <p>E) Temporary contract for workers in risk of social exclusion: Law 43/2006, amended by Law 44/2007; Law 3/2012. Collective agreements cannot regulate any aspect of this type of contract</p> <p>F) Relief Contract: Article 12 of the Workers' Statute (Royal Decree Law 1/1995); Royal Decree 1132/2002; Law 43/2006; Law 3/2012; Royal Decree 5/2013. Nothing is said in the law regarding the possibility of collective agreements to set some of the conditions for this type of contract</p>

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<p>year, but at certain periods of time - seasons, not exceeding eight months in a period of 12 consecutive months. (Regulated by the Labour Law – 2005)</p> <p>D) Employment contract as apprentice By a law, another regulation or collective agreement on the level of activity a contract of employment as a trainee, apprentice can be concluded, who performs the work for the first time, appropriate to the type and level of their professional education for the training for independent performance of the relevant work in the employment. The internship can last up to one year, unless the law stipulates otherwise. (Regulated by the Labour Law – 2005)</p> <p>E) Probation work When concluding an employment contract the employee and employer may agree to a probation work. In the employment contract despite all rights and obligations of employment the amount of salary and duration of the probation period, which may not be longer than six months shall be regulated. (Regulated by the Labour Law – 2005)</p> <p>F) Voluntary service If the voluntary service is a requirement for specialist examinations or independently performance of activities in accordance with a special law it should be done by concluding an agreement for voluntary service, between the employer and the volunteer. The volunteer is entitled to the provisions of this Law regarding the duration and performance of the internship, the limitation of working hours, daily breaks and leaves, responsibility for compensation, as well as ensuring OHS at work, in accordance with the law. The Contract for voluntary service must be concluded in writing and a copy of it within three days of signing, must be submitted to the labor inspection. (Regulated by the Labour Law – 2005)</p> <p>G) Employment contract for domestic workers An employment contract may be concluded for carrying domestic work. This employment contract can negotiate that the accommodation and food for the employee at the premises of the employer is part of the employee's salary, which must be expressed in money. The agreement is authenticated in the service responsible for employment mediation. (Regulated by the Labour Law – 2005)</p>	<p>C) temporary agency work Law on the regulation of temporary-employment agency work (Gesetz zur Regelung der Arbeitnehmerüberlassung - AÜG) from 07.08.1972 (BGBl. I S. 1393) last amended on 11.08.2014 (BGBl. I S. 1348, 1359) This law regulates the conditions under which a hire company by contract places an employee at the disposal of a third party company (hiring out of workers). Certain regulations apply regarding the obligation of the hiring company with 50 or more employees for requesting and authorisation from the Federal Employment Agency to avoid short-term work or dismissal (Art. 1 AÜG). The duration of its validity is one year with the option of extension and can become conditionally permanent (Art. 2(5) AÜG). More strict regulations apply in the construction industry (Art. 1b AÜG).</p> <p>D) freelance work/employee-like worker Civil Code from 18.12.1989 (BGBl. I S. 2261) last amended; Law on collective agreement (Tarifvertragsgesetz - TVG) from 09.04.1949 (WiGBl. S. 55, 68), last amended on 11.08.2014 (BGBl. I S. 1348, 1356); A freelancer pursues certain tasks by order of a company in the form of a contract of personal service (Dienstvertrag) according to Art. 611 Civil Code or service contract (Werkvertrag) according to Art. 631 Civil Code. Essential characteristics of freelance work are the freedom of instructions, of inclusion in the company, of fixed working hours, of specific work, of entitlement to benefits, of entitlement to holidays, purely performance-related remuneration and individual design possibility of work. Art 2 no. 9 of Social Security Code VI and Article 12a of Law on Collective Agreement (Tarifvertragsgesetz - TVG) are addressing the protection of self-employed people of this type who are in need of social protection by setting criteria according to identify "fake" self-employment. Such a criteria is e.g. determining the degree of economic dependency of one person (Art. 12a section 1a TVG) from a contractor (Art. 2 no. 9 SGB). Working for a single contractor may be a sign for "fake" self-employment. Although it does not fit strictly into these categorisations, crowdworking represents a more recent phenomenon of internet based work where usually no employment contracts apply but rather accepting terms and conditions of a company by a mouse click. Service contracts and contracts of personal service may be misused to circumvent social security contributions and can be called "false" and "fake" self-employment (Scheinselbständigkeit).</p>		<ul style="list-style-type: none"> Implementation of a temporary project, namely company or establishment installation or restructuring, industrial assembly or repair. <p>Duration and renewal TWA assignments can be renewed and/or prolonged as long as the justifying motive is maintained (Art. 178, 179 and 182, Law 7/2009). <i>Maximum duration of TEC's between the agency and the worker (Law 7/2009):</i> It cannot exceed the duration of the contract for the use of temporary work (Art. 182, Par. 1). A fixed-term TEC, including renewals, cannot exceed two years, or six or 12 months, in the case of a job vacancy when arising from a process of recruitment for its filling or exceptional increase of the company's activity, respectively (Art. 182, Par. 3). Contracts between the agency and the worker can, however, be open-ended (Arts. 183 and 184). <i>Maximum duration for the use of temporary work - assignments (Law 7/2009):</i> A contract for the use of temporary work, including renewals, can neither exceed the duration of the justifying cause nor the limit of two years, or six or 12 months in the case of a job vacancy when a process of recruitment for its filling is already underway or exceptional increase of the company's activity, respectively (Art. 178, Par. 2). Working conditions (Law 7/2009): During the assignment, the worker is subject to the regime applicable to the user with respect to place, working time and suspension of the employment contract, occupational safety and health and access to social facilities (Art. 185, Par. 2). The workers are entitled: <ul style="list-style-type: none"> To the minimum wage, corresponding to the functions performed, defined by collective agreement applicable to the temporary work agency or to the user, or to the wage that applies to other employees performing the same work or work with the same value, according to which is more favourable (Art. 185, Par. 5); </p> <p>To holidays, holiday and Christmas allowances, as well as other regular and periodic benefits (in proportion to the duration of their respective contract) to which the user's workers are entitled for the same work or same value (Art. 185, Par. 6). C) Contract under 'service commission' (TUSC) – Arts. 162 and 163, Law 7/2009; Arts. 161 and 164, Law 23/2012. Executive-level or equivalent duties may be performed in a contract under this regime, along with management or leadership posts directly dependent on the board or the general manager or equivalent, personal secretarial jobs for people in any of these positions, or also – provided that a collective bargaining agreement allows it – jobs whose nature presumes a special relationship of</p>	

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<p>H) Business employment contracts (managerial contracts) If an employment contract is being concluded by business people (executives), in the employment contract the parties may otherwise regulate the rights, obligations and responsibilities of employment especially for:</p> <ol style="list-style-type: none"> 1) the conditions and restrictions on the employment of a definite period of time; 2) working hours; 3) daily and annual leave; 4) payment <p>(Regulated by the Labour Law – 2005)</p> <p>I) Special contracts The employer may sign a contract with a specific person due to performance of work out of the business of the employer, subject to independent manufacture or repair of certain items, individual performance of certain physical or intellectual work. Such an agreement may also be concluded for cultural and artistic work with a person who performs cultural and artistic activity. (Regulated by the Labour Law – 2005)</p>			<p>trust regarding the people who hold these positions. In terms of terminating such an employment relationship, either party may denounce it upon written notice, at least 30 or 60 days in advance, provided that it has lasted, respectively, up to two years or more. This contract may be entered into by the company with pre-existent employees (internal regime) or with external people (external regime).</p> <p>D) Intermittent employment contract (IEC) – Arts. 157 to 160, Law 7/2009; Whenever a company carries on activities with variable intensity or discontinuity, it may be concluded between the parties an IEC, where it is agreed that the performance of work is interspersed by one or more periods of inactivity and it is defined the start and end of each period of work. The employer must inform the employee about the starting work period with an advance that should not be less than 20 days. The performance of work may not be less than 6 months per year and at least 4 months must be consecutive. During the period of inactivity the employee may engage in any other activity while keeping the right to a regular payment of 20% of the salary, unless a collective bargaining agreement defines another value. The employee is entitled as well to holiday and Christmas bonus.</p> <p>E) Telework employment contract TIwEC – Arts. 165 to 161, Law 7/2009; Upon execution of an agreement for the provision of subordinated telework, the worker begins to exert its activity outside the company site, using information and communication technologies. This agreement, in addition to other things, must contain express mention of telework regime, the corresponding wage and indicating the normal period of work. Employees under this regime have the same rights and duties as other workers.</p> <p>F) Fixed-term contract with very short duration (FTCvsd) – Article 142, Law 23/2012: This contract, not longer than 15 days, is not subject to a written agreement and applies to seasonal or agricultural activities product or for performing a tourism event. The employer must report their celebration to Social Security. The total duration of such contracts with the same employer may not exceed 70 working days in a calendar year. In case of violation of these provisions, the contract it is considered concluded for the period of six months.</p> <p>G) Internship contract (IC) – Ordinance 204-B/2013 and Ordinance 375/2013: The Internship contracts under the measures <i>Estágios Emprego</i> - a program promoted by IEFP (Instituto do Emprego e Formação Profissional/ Employment and Vocational Training Institute) - The Targeted Population is unemployed persons fulfilling the following criteria: aged between 18 and 30</p>	

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			<p>(inclusive), with a qualification level higher than 1; over 30, looking for a new job, with a qualification level higher than 1, acquired less than 3 years; between 31 and 35, in predefined sectors, with a qualification level higher than 1; living in a single parent family; married couple or in a de facto relation where both are unemployed; Handicapped persons (no age limit).</p> <p><i>Duration:</i> Internship may have duration of 6, 9, 12 or 18-months period.</p> <p><i>Total Grant to the intern:</i> A monthly support will be paid out, comprising a monthly trainee subsidy + meal allowance (€88,96) + work insurance (€13,86). The Monthly trainee subsidy is set according to the level of education:</p> <ul style="list-style-type: none"> • Up to elementary education (Level 2 or less) - €522,00 • Secondary education (Level 3) - €605,84 • Secondary education with 6-months internship (Level 4) - €647,77 • Non-university education (Level 5) - €689,69 • Tertiary Education (Levels 6, 7 and 8) - €794,49 <p><i>Grant to employers:</i> 80% of the Monthly trainee subsidy + 100% meal allowance + 100% work insurance.</p> <p><i>Working conditions:</i> It is applicable to the trainee the working time regime, the rest time and absences regulations and the rules on security, hygiene and health at work that apply to the employees of the company that carry on the trainee-ship contract.</p>	

TYPES OF SELF-EMPLOYMENT USED AS TEMPORARY WORK IN ORDER TO AVOID SOCIAL SECURITY CONTRIBUTIONS

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<p>In order to avoid the possibility of performing an activity while not paying social security contributions, CCM has supported the activity of adopting a Law on prohibition and prevention of unregistered activity (Official Gazette No. 199/2014) in RM.</p> <p>The social partners in Macedonia have deemed that the lack of legislation in this area was the cause and incentive for informal and grey economy, since for the unregistered businesses - activities taxes have not being paid, employees have not been registered nor meet general performance standards i.e. not provide any basic employment rights for workers engaged in them.</p> <p>The purpose of the Law is to prohibit unregistered activity in the country, which shall create equal economic conditions for all subjects, the unfair competition shall be overcome, given service shall be licensed and guaranteed and consumers shall be protected and workers' rights shall be promoted.</p> <p>In order to prevent the possibility of abuse, i.e. to create legal assumptions, all those performing activities and acquire income on that basis should be required to participate in relevant mandatory state social funds, the Labor Law has been amended i.e. Law on amendments to the Labour Law, Official Gazette. No. 20/2015 which stipulates that allowances for performed work concluded with separate agreements (special agreements regulated by Article 252 of the Labor Law), are subject to payment of contributions for compulsory social insurance in accordance with the Law.</p> <p>In this regard, the Law Amending the Law on Contributions for Mandatory Social Insurance has been adopted (Official Gazette No. 20/2015), which regulates the manner of paying contributions for compulsory social insurance for contracts per services rendered, copyrights contracts and other contracts.</p>	<p>Personal service and service contracts for self-employed are misused in different sectors to avoid social security contributions of labour law provisions. It is called "Scheinselbständigkeit" ("false" self-employment).</p> <p>Crowdworking is a new form of work relation between an individual and a company usually offered over an internet platform (e.g. Amazon Mechanical Turk, Clickworker, etc). Since the working conditions are dealt with in form of accepting the terms or conditions of the company/platform, crowdworkers have little to no bargaining power.</p>	<p>A dependent employment relationship is disguised by entering a relationship with a formally self-employed worker or by having the worker enter a contract for project work, even if the worker is really under the direction of the employer. The self-employed worker have to pay his or her own taxes and pension contributions, while a specific facilitated fiscal and pension contribution regime is provided for project work; minimum wage is granted neither in favour of self-employed nor in favour of project workers. Employers may be tempted to qualify a dependent worker as a self-employed worker or a project worker to enjoy the more advantageous fiscal, pension contribution and minimum wage regimes applied to them.</p>	<p>In 2013, with the Law 63/2013 it was recognized that a number of self-employed workers under formal contracts for provision of services were <i>de facto</i> performing work under the terms and conditions of employment contracts. In particular that their activity was taking place not under the conditions of autonomous work, but under the conditions that define subordinate work i.e., employment contract (Law 7/2009, Art. 12), such as: the place where the activity of the provider of work is held; the equipment and tools used by the worker; working time (start and term); regular payment; and activity performed in the organizational structure of the company.</p> <p>The law includes mechanisms to prevent the misuse of rendering of services contracts in any existing employment relationship. For this purpose, the Portuguese Authority for Work Conditions (ACT) is now responsible for verifying the existent of evidence of a situation of seemingly autonomous activity, in situations in which it is presumed the existence of an employment contract.</p> <p>While workers under a dependent employment relationship contribute to Social Security with 11% of the remuneration they receive and the employer with 23.75%, self-employed workers providing services contribute to Social Security with 29.6% (of 70% of the remuneration they receive) and in general the employer does not pay any contributions. The exception is when 80% of the total activity of the self-employed takes place under a single contractor in which case the company has to pay 5% to Social Security.</p>	<p>The so-called '<i>falsos autónomos</i>' (fake self-employees or bogus self-employees) are particularly important in sectors like construction. According to the Spanish Labour Force Survey (EPA), the number of self-employees which work almost exclusively for one company is estimated to be around 250000</p>

HOW LEGISLATION PREVENT THE "FAKE" SELF-EMPLOYMENT				
FYR MACEDONIA	GERMANY	ITALY	PORTUGAL	SPAIN
See above	"False" self-employment occurs in the case of employee-like workers if they significantly depend on one contractor either financially or on work instructions (place of work, guidance of tasks, etc.). Currently, "fake" self-employment is covered by the Code of Social Law, Book VI, §2 Nr. 9 on statutory pension obligations of self-employed workers (SGB VI §2 Nr. 9), which foresees the protection of "fake" unemployment. Further, Article 12a of Law on Collective Agreement (Tarifvertragsgesetz) defines some criteria when "fake" self-employment applies. There are no regulative measures that would apply to crowdworking.	Art. 69 bis of decree 276/2003 (introduced by l. 92/2012) defines three main indicators to presume that a self-employed worker is really a project worker: -8 months (241 days) of work for 2 continuous years -80% of revenues with the same undertaking for 2 continuous years, -permanent workstation on the employer's premises (even if shared with other workers) When at least 2 of these 3 parameters can be identified, the worker is considered a project worker (co.co.pro, see below). Exceptions are provided for professionals, high-skilled workers and self-employed holding at least 1.25 the minimum yearly income to pay pension contributions (around € 18.700,00 per year). But a project work can be deemed false and disguising a really dependent work when, from the worker's duties, it is not possible to deduce their finalization to the carrying out of a specific project. In this case, if the employment contract is qualified as a subordinate one, the employer shall be forced to: -pay all the unpaid social security contributions for the entire period of work -hire the worker as a permanent employer -pay the difference between the wage paid (since day one of the employment relationship) and the minimum wage provided for the specific type of worker	In 2013, with the Law 63/2013 it was recognized that a number of self-employed workers under formal contracts for provision of services were <i>de facto</i> performing work under the terms and conditions of employment contracts. In particular that their activity was taking place not under the conditions of autonomous work, but under the conditions that define subordinate work i.e., employment contract (Law 7/2009, Art. 12), such as: the place where the activity of the provider of work is held; the equipment and tools used by the worker; working time (start and term); regular payment; and activity performed in the organizational structure of the company. Despite the positive changes introduced, the new law did not oblige the employers to convert the 'fake' contracts of service in formal employment contracts. The law envisages, instead, a system of fees, when employers do not comply with the law. Furthermore, the identification of the situations of misuse requires a very active role of Labour Inspection and also considerable means to act, which is seen as a problem insofar Labour Inspection lacks the means, in first place, a sufficient number of labour inspectors to address this issue properly.	The Self-Employee Statute (Estatuto del Trabajo Autónomo, Law 20/2007) contemplates the so-called TRADE (Dependent Self-employee), which was aimed precisely at limiting the impact of fake or bogus self-employment. These self-employees receive around 75% of total income from a single employer. However, the incidence of this type of contract is limited due to other conditions required to the self-employee when signing the contract like owing its own production tools (car, tools etc.).

INDICATIVE RATE/INCIDENCE OF THE NUMBER OF SELF-EMPLOYED IDENTIFIED ABOVE COMPARED TO THE TOTAL NUMBER OF SELF-EMPLOYED				
FYR MACEDONIA	GERMANY	ITALY	PORTUGAL	SPAIN
	There are no available estimates on the incidence or rate of "false" self-employment or of crowdworkers.	Depending on the source, 16% (ISFOL)-20% (IRES)	There are not regular statistics on this issue. In 2010, however, the INE (Official Statistics Portugal) estimated that around 71 000 persons were 'fake' self-employed. If we consider the total number of self-employed (without employees) in that same year - which was around 522 600 (Eurostat) - , the percentage of 'fake' self-employment was around 13.6%.	8,9%

NOTES				
FYR MACEDONIA	GERMANY	ITALY	PORTUGAL	SPAIN