

# In-Work Poverty in Europe

## Bulletin of Comparative Labour Relations

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VOLUME 111

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### *Founding Editor*

The series started in 1970 under the dynamic editorship of Professor Roger Blanpain (Belgium), former President of the International Industrial Relations Association. Professor Blanpain, Professor Emeritus of Labour Law, Universities of Leuven and Tilburg, was also General Editor of the International Encyclopedia of Laws (with more than 1,600 collaborators worldwide) and President of the Association of Educative and Scientific Authors. He passed away in October 2016.

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In 2015 Frank Hendrickx, Professor of labour law at the Faculty of Law of the University of Leuven (Belgium) joined as a co-Editor. Frank Hendrickx has published numerous articles and books and regularly advises governments, international institutions and private organisations in the area of labour law as well as in sports law. He is the Editor-in-Chief of the European Labour Law Journal and General Editor of the International Encyclopaedia of Laws.

### *Introduction*

The Bulletins constitute a unique source of information and thought-provoking discussion, laying the groundwork for studies of employment relations in the 21st century, involving among much else the effects of globalization, new technologies, migration, and the greying of the population.

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### *Objective*

The Bulletins offer a platform of expression and discussion on labour relations to scholars and practitioners worldwide, often featuring special guest editors.

*The titles published in this series are listed at the end of this volume.*

In-Work Poverty in Europe  
Vulnerable and Under-Represented Persons in a  
Comparative Perspective

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## CHAPTER 1

# The Challenge of Defining, Measuring, and Overcoming In-Work Poverty in Europe: An Introduction

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*The present introductory chapter presents the concept of in-work poverty, describes its incidence and recent evolution in the European Union, and provides an overview of the causes behind this phenomenon against the background of policy debates at EU and national level. To better understand what is at stake when we refer to in-work poverty, it is key to have an accurate idea of how it is measured and what are the limitations of existing indicators, reason why this introduction includes an explanation on these two issues. Another section is devoted to explain why the focus of this book is on particular groups of workers for the study of in-work poverty. Finally, an overview of the book's structure and a brief description of each chapter are provided.*

### **§1.01 IN-WORK POVERTY IN THE EUROPEAN UNION**

In-work poverty is a reality for too many persons in the European Union (EU). As recorded in a 2021 Resolution of the European Parliament (EP) on inequalities,<sup>1</sup> about 20.5 million people experienced in-work poverty in 2017. Moreover, in the last decade

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1. European Parliament, *Resolution of 10 February 2021 on reducing inequalities with a special focus on in-work poverty* (2019/2188 (INI)).

this phenomenon is on the rise,<sup>2</sup> even if in the last years statistical information describes certain stability or even a slight decrease of the percentage of in-work poor.<sup>3</sup>

Despite this scenario, in-work poverty only recently gained visibility. Policy debates with an exclusive focus on the topic are still rare, particularly at national level. Indeed, in-work poverty is to a great extent still perceived as part of the overall goal to reduce poverty with the result that quite often there is no specific focus on the problematic of those who, despite being working, are poor.<sup>4</sup>

The present book aims to contribute to a better knowledge and understanding of in-work poverty, thus equipping policy makers at EU and national level with more targeted tools to tackle this social problem.

The most original element of the present book is its focus on certain groups of workers in the labour market. We refer to these groups as ‘Vulnerable and Under-Represented Persons’ (VUPs), to convey the idea that individuals belonging to these groups are often in a vulnerable situation in the labour market and/or not adequately represented and protected by labour law institutions, including trade unions (via collective bargaining coverage or otherwise). The idea and composition of the VUPs has its origins in the Research Project ‘Working, Yet Poor’,<sup>5</sup> in which all the authors in this volume are involved.

This introduction presents, first, the concept of in-work poverty, offering a brief description of the many causes behind this phenomenon. It continues with a description of the incidence and recent evolution of the phenomenon in the EU. Section 1.02 deals with the indicators used at EU level to measure in-work poverty. Section 1.03 explains the methodological reasons behind the focus of the analysis in some particular groups of workers, referred to as VUPs or VUP groups. Section 1.04 presents detailed statistical information on the incidence of in-work poverty in such VUP groups. Finally, §1.05 describes the structure and main contents of the present book.

## [A] The Concept of In-Work Poverty

The concept of in-work poverty in the EU is a relative one and entails two dimensions: ‘work’ and ‘poverty’.<sup>6</sup> A person must fulfil, therefore, two cumulative requisites to be considered as ‘working poor’: first, the person must have worked during a period of time and, second, the income of the household where the person lives, in comparison with the median income levels of the country’s households, must fall below a certain threshold.

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2. Ramón Peña-Casas; Dalila Ghaliani; Slavina Spasova & Bart Vanhercke, *In-work poverty in Europe. A study of national policies*, p. 7 (European Social Policy Network, 2019).

3. This percentage was 9.4% in years 2017 and 2018, to slightly decrease down to 9.2% in 2019, although the data for this last year are still an estimation. Eurostat. In-work at-risk-of-poverty rate by age and sex – EU-SILC survey [ilc\_iw01].

4. Ramón Peña-Casas et al., *In-work poverty in Europe*, *supra* n. 2, pp. 12-13.

5. *Working, Yet Poor* is a research project funded under the European Union’s Horizon 2020 programme. More information is available in the Project’s website: <https://workingyetpoor.eu/>.

6. See Eurofound, *In-work poverty in the EU*, p. 5 (Publications Office of the European Union, 2017).



In the EU, that threshold is met when the yearly equivalized disposable income is below 60% of the national household median income level (*see* more in detail §1.02). The 60% threshold goal is an arbitrary convention aiming at identifying a minimum level of income that is necessary to cover those necessities that are basic relative to the society where the individuals live.

In-work poverty and material deprivation are not equivalents. Material deprivation measures absolute poverty and is built taking into consideration the capacity of individuals to access a number of items included in a basket of basic goods and services (*see* §1.02). In-work poverty, being a relative concept, refers to the position of the individual in a given society, and its functional capacity to participate in the social and political life of the community where he/she lives.<sup>7</sup> Therefore, it is possible to experience in-work poverty even when a person lives in a household with no material deprivation (and vice versa). In the EU, levels of material deprivation tend to be lower than in-work poverty levels.

Another particularity is that in-work poverty combines an individual measure of work with a household dimension of relative income. This means that the composition of the household, as well as the work intensity thereof, are of great importance: even when an individual's employment conditions (wages, number of people employed, etc.) remain constant, it is possible that the poverty status changes over time due to variations in the household composition or changes in the household's work intensity.<sup>8</sup>

There are a number of challenges when it comes to the measurement of in-work poverty and how the indicators are elaborated. These challenges, as well as the strengths and shortcomings of indicators, are discussed more in detail (*see* §1.02).

### [B] Drivers of In-Work Poverty

Research shows that in-work poverty is a complex and multidimensional phenomenon with manifold and intertwined causes. These causes or factors are typically grouped into distinct categories for their study, according to their nature. Individual and household factors are the two main categories,<sup>9</sup> although some studies add institutional factors as a third and heterogeneous group of causes.<sup>10</sup> The following paragraphs provide a description of these three groups.

- (a) *Individual factors* refer both to the employment situation of individuals and to their socio-demographic characteristics. Each of these subgroups is in turn composed of multiple factors.

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7. A relative concept of poverty means that poverty is understood in terms of the standard of living of the society in question. *See* Ive Marx & Karl Van den Bosch, How poverty differs from inequality. On poverty measurement on an enlarged EU context: conventional and alternative approaches, pp. 7-9 (Centre for Social Policy, University of Antwerp, 2008), <https://ec.europa.eu/eurostat/documents/1001617/4577263/1-1-I-MARX.pdf>.

8. Eurofound, *In work-poverty*, *supra* n. 6, p. 5.

9. Ramón Peña-Casas et al., *In-work poverty in Europe*, *supra* n. 2.

10. Eurofound, *In work-poverty* *supra* n. 6, pp. 7-14.

Among the employment-related causes, one is probably the first to come to mind: having a *low wage*. However, research shows that there is no strong correlation between low salaries and in-work poverty. It is important to keep in mind that poor workers differ from low-wage workers. As explained by Salverda, a low-wage worker in the EU is a person whose hourly earnings (excluding employer paid social contributions and payroll taxes) is less than two-thirds of median hourly earnings.<sup>11</sup> It is, therefore, a *relative* concept (because it depends on the distribution of wages in the population) and an *individual* concept (the situation of the household as a whole is not considered). In addition, low pay is measured on gross hourly earnings while poverty is based on equivalent household disposable income measured over a full year. The data used by Salverda show a higher incidence of low pay than in-work poverty in all the EU countries except Sweden.<sup>12</sup> Although the risk of poverty is higher for a low-paid worker, the weak correlation between these two indicators shows that low wage is only a weak determinant of in-work poverty.<sup>13</sup> Many low-paid workers are secondary earners in a household, and the first earner ensures that the household is not below the poverty line.<sup>14</sup> Indeed, due to the household dimension, the impact of low pay on an individual's risk of in-work poverty depends largely on the composition of the household where she/he lives. Finally, there are wide differences among EU Member States: in most Southern European Member States and also in Lithuania, Hungary, Luxembourg, Sweden, Latvia, Austria, and France, more than one-fifth of low-wage employees are poor, while less than one-tenth of low-wage employees are poor in Slovenia, Ireland, and Czech Republic.<sup>15</sup>

The second most relevant factor related to the employment situation is the *type of contract*: temporary and part-time workers are in the EU at a higher risk to experience in-work poverty than workers with indefinite and full-time contracts. Work-intensity seems to be especially problematic, since part-time workers can face additional difficulties because their access to social benefits may be hampered when eligibility is based on the number of hours effectively worked.<sup>16</sup> The self-employed also face a higher risk of in-work poverty than employees in most EU Member States, although the data on the income of

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11. Wiemer Salverda, Low earnings and their drivers in relation to in-work poverty, in *Handbook on In-Work Poverty* 26-49 (Henning Lohmann & Ive Marx eds., Edward Elgar Publishing 2018).

12. *Ibid.*

13. See Bertrand Maître, Brian Nolan, & Christopher T. Whelan, *Low-pay, in-work poverty and economic vulnerability: a comparative analysis using EU-SILC*. Manchester School, 80(1), 99-116 (2012); Salverda, Low earnings and their drivers *supra* n. 11.

14. See, for example, on Germany, Marco Gießelmann & Lohmann Henning, The different roles of low-wage work in Germany: regional, demographical and temporary variances in the poverty risk of low-paid workers, in *The Working Poor in Europe*, 96-123 (Hand-Jürgen Andreß & Henning Lohmann eds., Edward Elgar Publishing, 2008).

15. European Commission, *Employment and Social Developments in Europe 2016*, pp. 84-93 (Publications Office of the European Union, 2016).

16. Jeroen Horemans & Ive Marx, In-work poverty in times of crisis: do part-timers fare worse? (ImPRovE Working Papers 13/14, Herman Deleeck Centre for Social Policy, University of Antwerp, 2013).

self-employed persons in surveys should be considered with caution, given the risk of underestimation of self-assessed income by the self-employed population.<sup>17</sup>

When it comes to *socio-demographic characteristics* of the working poor, the level of education, gender, age, and country of birth seem to be the most relevant factors on the risk of in-work poverty. Even if these individual characteristics may be in themselves factors triggering in-work poverty, they can also cumulate in the same person in a sort of intersectionality, seriously increasing the overall risk to be working poor.<sup>18</sup> Educational level is the most relevant of the socio-demographic characteristics that may play a role in the risk to experience in-work poverty. The higher the level of education, the lower the in-work poverty rate. Second comes the country of birth. Being born abroad implies a higher risk of in-work poverty when compared with native populations. Research shows that part-time and temporary work are more widespread among foreign-born workers and that a bigger proportion of immigrants have elementary occupations.<sup>19</sup> Surprisingly, age and gender seem to be less relevant in relation to in-work poverty levels<sup>20</sup> and no uniform patterns exist across Member States with respect to these two characteristics.<sup>21</sup> The fact that the gender difference is not significant is paradoxical, given the disadvantage of women in the labour market in terms of wages, working time, occupation, and career progression. This gender paradox is largely explained by the fact that in-work poverty is measured at household level, which poses questions about how resources are shared within the household. Research shows that if household income was to be assessed individually and not at the household level, the risk of in-work poverty would be higher for women than for men.<sup>22</sup>

- (b) *Household factors* refer both to the size and the composition of the household, as well as to the work intensity of its members. Indeed, the composition of the household seems to be one of the most important factors in connection to in-work poverty, and existing research suggests that it may be even more important than the individual dimension for the understanding of the phenomenon.<sup>23</sup> Data show that the risk of in-work poverty is much higher for people living in a household with children. In particular, single parents or coupled parents with three or more children experience a higher risk.<sup>24</sup> The household's overall work intensity – defined as the ratio of the total number of months that all working-age household members have worked during the

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17. Ramón Peña-Casas et al., *In-work poverty in Europe*, *supra* n. 2, p. 33.

18. *Ibid.*, p. 25.

19. Eurofound, *In work-poverty*, *supra* n. 6, p. 8.

20. Ramón Peña-Casas et al., *In-work poverty in Europe*, *supra* n. 2, p. 26.

21. Eurofound, *In work-poverty*, *supra* n. 6, p. 8.

22. Sophie Ponthieux, Gender and in-work poverty, in *Handbook on In-Work Poverty* 70-88 (Henning Lohmann & Ive Marx eds., Edward Elgar Publishing 2018).

23. Ramón Peña-Casas et al., *In-work poverty in Europe*, *supra* n. 2, p. 38.

24. *Ibid.*, p. 39.

income reference year and the total number of months the same household members theoretically could have worked in the same period – is also strongly connected to in-work poverty levels. Logically, the relation between the household work intensity and the individual risk of in-work poverty is inversely proportional: the lower work intensity in the household, the higher the poverty risk of the worker. Workers in low-intensity households with children are the most at risk.<sup>25</sup> Work intensity is often related to institutional and cultural factors and has a gender dimension. Women are more often second earners in the household and tend more often to limit their working time to take care of children. Institutional factors, such as the availability and affordability of childcare or access to flexible work arrangements, can have an important impact on work intensity for women.<sup>26</sup>

- (c) As mentioned earlier, some authors add a third set of causes to in-work poverty, grouped under the label ‘*institutional*’. In its 2017 report, Eurofound lists as institutional factors the following: social transfers, the possibility of the workers to opt-out of the labour market when wages or working conditions are not satisfactory, employment protection and labour market institutions (wage-setting, minimum wage legislation, and collective bargaining). Other institutional factors are access to childcare, tax law, etc. The EP mentions in addition the lack of affordable housing and technological change.<sup>27</sup>

### [C] Incidence of In-Work Poverty in the EU: Recent Evolution

What was the incidence of in-work poverty in the EU in 2021? And what has been its recent evolution?

On this point, a caveat is needed: the most recent statistical data on in-work poverty at EU level refer to year 2019 (and even these are still considered as estimation in the European Union Statistics on Income and Living Conditions (EU-SILC) statistics). This means that, at this point of time, it is only possible to assess the situation right before the COVID-19 crisis. In its 2021 Resolution, the EP fears that the economic and social consequences of the COVID-19 pandemic will negatively affect in-work poverty levels. This will start to be visible when statistics of year 2020 become available.

In 2019, the percentage of in-work poor in the EU-27 for employed persons aged 18 and older was 9% (estimated). In the previous years, the percentage remained rather stable at 9.4% (2017 and 2018 for the EU-28), after reaching its peak in 2016 (9.6%). However, going back in time and comparing the data of the last three years

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25. *Ibid.*, p. 40.

26. Eurofound, *In work-poverty*, *supra* n. 6, p. 10.

27. It is also noted by the Parliament that rents are constantly rising in most Member States, leading to overburden rates of housing costs (i.e., when individuals need to spend 40% or more of their equalized disposable income on housing). European Parliament, *Resolution of 10 February 2021*, *supra* n. 1.

with the situation before the 2008 crisis, it can be seen that there has been an increase in the levels of in-work poverty in the EU in the last 15 years. The percentage of in-work poverty in 2007 in the EU-27 (without Croatia, but with UK) was 8.3%, whereas in the next years, particularly between 2010 and 2014, the percentage increased every year until 2016 before stabilizing.<sup>28</sup>

Research shows that differences in the levels of in-work poverty among EU Member States are important, and the same can be said about the evolution of in-work poverty within the different countries. In 2019, in-work poverty in the EU ranged from a minimum of 2.9% in Finland to a maximum of 15.7% in Romania. The fact that the levels of in-work poverty have significantly decreased in countries like Greece (where these levels are lower in the years following the 2008 financial crisis than in the pre-crisis period), reflect a significant drop in median incomes rather than an improvement in the situation of the working poor. In this sense, when the poverty threshold is anchored at levels previous to the financial crisis, data are clear in showing that, contrary to the evolution of in-work poverty rates, poverty went up in the countries hit hardest by the crisis.<sup>29</sup>

One of the factors explaining the rise of in-work poverty during the years following the 2008 financial crisis may be the increase in the use of atypical employment. On the one hand, 'a correlation has been found between the rise in non-standard forms of employment and the increased proportion of Europeans at risk of in-work poverty'.<sup>30</sup> On the other hand, due to the contraction of employment during the 2008 financial crisis, there was an important increase in the number of people on atypical employment, including fixed-term (short term) or part-time employment (also involuntary part-time).<sup>31</sup> Therefore, the increased incidence of atypical employment and self-employment, which tend to be clustered in certain households, is relevant.

Even when there are sharp differences between Member States in the levels of part-time work as well as in the levels of temporary employment, data clearly show that, for both types of contracts, the risk of in-work poverty increased on average at EU level, at least between 2007 and 2014.<sup>32</sup>

Differences in the levels of in-work poverty do exist not only between Member States, but also within countries. As it has been described when discussing the causes of in-work poverty, some groups of workers are more likely to be affected by this phenomenon than others. Indeed, in-work poverty is not distributed evenly across the labour market. On the contrary, it tends to concentrate within particular groups, which are therefore more vulnerable.<sup>33</sup>

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28. EU-SILC survey -In-work at-risk-of-poverty rate by age and sex.

29. Eurofound, *In work-poverty*, *supra* n. 6, pp. 16-17.

30. European Parliament, *Resolution of 10 February 2021*, *supra* n. 1.

31. ETUI, *Benchmarking Working Europe 2019*, 'Labour market and social developments' chapter, 2019.

32. Eurofound, *In work-poverty*, *supra* n. 6, pp. 22-24.

33. Ramón Peña-Casas et al., *In-work poverty in Europe*, *supra* n. 2, pp. 49-51.

**[D] The Policy Debate on In-Work Poverty in the EU**

The policy debate on in-work poverty at EU level has evolved in the recent years. Certainly, concern about in-work poverty has been steadily growing at the same pace as in-work poverty gained visibility and became distinguishable from the broader problem of ‘poverty’. The first step on this process took place in 2003, when the EU agreed on a specific indicator to measure in-work poverty by introducing ‘in-work at-risk-of- poverty’ as part of the EU’s set of social inclusion indicators.<sup>34</sup> Since then, in-work poverty became more visible, which was in turn the first step towards a targeted approach to this phenomenon.

The fight against in-work poverty was seen until very recently as part of the overall goal to reduce poverty in the EU, with the consequence that a more specific focus on in-work poverty was missing. The EU 2020 strategy, which had as one of its headline targets to reduce the number of poor by at least 20 million by year 2020, identified the unemployed as a particularly vulnerable group. Therefore, one of the main priorities in the last decade, and especially in the aftermath of the 2008 economic crisis, has been to strive for higher levels of employment. Social policy was informed accordingly at EU level. This approach, however, proved not to be the most adequate to tackle in-work poverty, since getting people into work is not always enough.<sup>35</sup>

The 2008 financial crisis, which became an economic crisis in the EU in the following years, provoked an increase on unemployment levels as well as in the use of non-standard forms of employment and self-employment, but, ‘despite the seemingly obvious relationship between (in-work) poverty and hard economic times, the story of in-work poverty during the crisis years is far from simple’.<sup>36</sup>

In 2014, the Social Protection Committee urged EU countries to address the problems of the working poor.<sup>37</sup> However, the qualitative change would come later, with the European Pillar of Social Rights (EPSR), where for the first time in-work poverty was recognized as one of the problems that the EU social agenda had to address.

In particular, Articles 6 and 12 of the EPSR are directly relevant for in-work poverty. Article 6 states that ‘workers have the right to fair wages that provide for a decent standard of living’ and that ‘adequate minimum wages shall be ensured, in a way that provide for the satisfaction of the needs of the workers and his/her family in the light of national economic and social conditions (...). In-work poverty shall be prevented’. Article 12 states that ‘regardless of the type and duration of their employment relationships, workers, and, under comparable conditions, the self-employed, have the right to adequate protection’. Furthermore, although in a less direct way, nearly all the other principles in the EPSR, such as equal opportunities and access to the

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34. Ive Marx & Brian Nolan, *In-work poverty*, p. 11 (GINI discussion paper 51, 2012).

35. Eurofound, *In work-poverty*, *supra* n. 6, p. 4.

36. *Ibid.*, p. 15.

37. Social Protection Committee, *Social Europe: many ways, one objective: Annual report of the Social Protection Committee on the social situation in the European Union (2013)*, (Publications Office of the European Union, 2014).

labour market (principles 3 and 4), fair working conditions, social protection and inclusion are relevant to in-work poverty.<sup>38</sup> The EPSR is, therefore, a point of reference in the fight against in-work poverty in the EU.

In the framework of the implementation of the EPSR, the Commission has released an Action Plan<sup>39</sup> establishing the objective of reducing the number of people at risk of poverty or social exclusion by at least 15 million by 2030. A number of legislative initiatives contribute to substantiate the EPSR Action Plan. In October 2020, a proposal for a Directive on adequate minimum wages was presented by the Commission.<sup>40</sup> In November 2021, the EP's Committee on Employment and Social affairs presented a revised text which was adopted by the Plenary.<sup>41</sup> Similarly, in December 2021, the Commission has presented a proposal for a Directive on improving working conditions of platform workers.<sup>42</sup>

Among the policy actors, the EP has been particularly active in the EU debate on in-work poverty, stressing the importance of having a decent income, including a decent wage, on several occasions.<sup>43</sup> In its last resolution of 10 February 2021, the EP urged the Commission and the Member States to take action against in-work poverty by, among other measures, developing instruments such as minimum incomes, minimum wages, and minimum pensions, promoting collective bargaining, reinforcing available and affordable public services, guaranteeing equal access to education, training, and digitalization, reinforcing the European anti-poverty strategy, fighting tax avoidance, developing housing policies, and ensuring decent working and employment conditions in the digital economy.<sup>44</sup>

Despite the described evolution of the policy debates and discourse at EU level, at national level the 'policy debates and proposals for reforms (...) have only very rarely been framed as explicitly targeting [in-work poverty]' and the debate on in-work poverty remains to a large extent 'underdeveloped in policy discourse and action'.<sup>45</sup>

## §1.02 HOW DO WE MEASURE IN-WORK POVERTY?

Measuring poverty and thus in-work poverty is not an easy task. There are different ways to define poverty. Poverty is, indeed, a multidimensional phenomenon, and focusing only on monetary aspects can be considered too restrictive. However, data on living conditions may be more difficult to collect than income. In addition, determining a threshold below which a person is considered poor is difficult and may be arbitrary.

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38. Ramón Peña-Casas et al., *In-work poverty in Europe*, *supra* n. 2, p. 8.

39. European Commission, *The European Pillar of Social Rights Action Plan* (SWD (2021) 46 final).

40. European Commission, COM (2020) 682 final.

41. European Parliament, *Draft legislative resolution on the proposal for a directive on adequate minimum wages in the European Union*.

42. European Commission, COM (2021) 762 final.

43. European Parliament, Resolution of 14 April 2016 on meeting the anti-poverty target in the light of increasing household costs (2015/2223 (INI)) and European Parliament Resolution of 19 January on the European Pillar of Social Rights (2016/2095 (INI)).

44. European Parliament, *Resolution of 10 February 2021*, *supra* n. 1.

45. Ramón Peña-Casas et al., *In-work poverty in Europe*, *supra* n. 2, pp. 12 and 84.



Finally, the question of how to define a worker is critical. Surveys question people about their current employment status or about a retrospective calendar of activity over a reference period during which transitions in or out of work may be important. The definition of a worker is, therefore, crucial.

### [A] The European Measure of Poverty

Before defining in-work poverty, it is important to understand how poverty is measured in Europe. In 1975, the European Council defined the poor as ‘individuals or families whose resources are so small as to exclude them from the minimum acceptable way of life of the Member State in which they live’.<sup>46</sup> This definition assumes a relative approach to poverty: an individual is poor if he/she has a lower standard of living than the others living in the same country. Following these considerations, the European *at-risk-of-poverty* (AROP) indicator measures the proportion of the population with a standard of living below 60% of the median standard of living in a specific country (60% of the median is known as ‘the poverty line’). To define the standard of living, the definition uses the disposable income, which corresponds to gross income (from work, capital, etc.) plus social benefits received (public pensions, means-tested or non-means-tested benefits) minus direct taxes (social insurance contributions, income tax, property taxes, etc.). More concretely, it is the income that a household has at the end of the month, or year, to consume or save. Disposable income is measured at the household level, implying that all the incomes of the members of the household are added together. Eurostat defines a household as ‘a social unit having common arrangements, sharing household expenses or daily needs and living in a shared common residence’.<sup>47</sup>

Disposable income, per se, cannot be used directly to measure the standard of living because household size also matters. For example, if two households have the same disposable income of 2,000 EUR, and if one household is composed of 2 adults and the other one of 2 adults and 2 children, the standard of living is not the same. The second household, composed of 4 persons, requires more money to meet the needs of all household members or to get the same level of well-being. In addition, not every individual requires the same amount of money to meet their needs, in particular when comparing children and adults. Children generally have fewer needs than adults do. Living together also creates some economies of scale because some expenditures are pooled (e.g., the housing costs, internet access, etc.). A couple does not need twice the income of a single to reach the same level of well-being. The measure of the standard of living therefore corresponds to the disposable income adjusted for household size and economies of scale: the ‘equivalized disposable income’. The adjustment is

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46. Council Decision of 22 July 1975 concerning a programme of pilot schemes and studies to combat poverty (75/458/EEC). <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:31975D0458&from=EN> (accessed 15 Dec. 2021).

47. Eurostat, Glossary: Household social statistics, Statistics Explained (2021). [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Household\\_-\\_social\\_statistics](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Household_-_social_statistics) (last accessed 15 Dec. 2021).



conducted by using an equivalence scale. The equivalence scale used by Eurostat is known as the *OECD-modified scale*. This scale takes the value 1 for the first adult in the household, 0.5 for additional adults aged 14 and over, and 0.3 for children under 14. The standard of living therefore corresponds to the disposable income divided by the OECD-modified scale. Consequently, the poverty line corresponds to 60% of the median of the distribution of equivalized disposable income per individual observed in the population.

Disposable income and equivalence scale are measured at the household level, then each member of the household has the same equivalized disposable income but the unit of measurement for the *at-risk-of-poverty* rate is the individual. This indicator is known among poverty experts as the headcount measure of poverty. In other words, the *at-risk-of-poverty* rate measures the share of the individuals in a country who are under the poverty line.

The *at-risk-of-poverty* indicator is country-specific: two households in two countries with the same equivalized disposable income can be categorized as poor in one country and not in the other, because the poverty lines are defined according to the median equivalized disposable income observed in each country. In addition, as the median equivalized disposable income can change from one year to the next, the *at-risk-of-poverty* rate can rise even if the standard of living of poor households has risen (but more slowly than the median). Therefore, this indicator has some limitations for comparisons across countries or over time. In addition, it focuses only on some monetary aspects; the wealth, savings, and debts are not considered. Other non-monetary aspects are also not measured in the *at-risk-of-poverty* rate such as in-kind transfers (from public services) or the material situation of households (for example, it does not provide information on whether the household is living in a decent dwelling). On the other hand, this indicator is very useful for comparing the situation of different groups of the population in a specific country. Finally, the *at-risk-of-poverty* rate is also an inequality indicator by measuring the share of the population away from the median standard of living observed in the country.

### [B] Measuring In-Work Poverty

As defined by Lohmann, an in-work poor person is a working person who lives in a poor household.<sup>48</sup> The previous section defined what a poor is. The current one describes how to define a worker for statistical purposes.

The International Labour Organization (ILO) defines the currently active population, or the labour force, as ‘persons above a specified minimum age who during a specified brief period, either one week or one day [...] fulfil the requirements for inclusion among the employed or the unemployed’.<sup>49</sup> This definition includes therefore

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48. Henning Lohmann, The concept and measurement of in-work poverty, in *Handbook on In-Work Poverty* 7-25 (Henning Lohmann & Ivo Marx eds., Edward Elgar Publishing 2018).

49. International Labour Organization (ILO), *Resolutions Concerning Economically Active Population, Employment, Unemployment and Underemployment*, paras. 8-9, Adopted by the 13th International Conference of Labour Statisticians (October 1982).

paid employment, self-employment, and unemployment. In the first two categories, a person can be defined, according to ILO, as ‘*at work*’ or ‘*with a job/enterprise but not at work*’.<sup>50</sup> The former actually worked for a wage/profit or family gain over the reference period while the latter, although formally related to the firm/institution and having already worked for it, did not perform any work over the reference period (because of holidays, illness, etc.).

As stated in the definition of labour force, individuals must fulfil a number of requirements to be regarded as employed or unemployed. Thus, ILO defines the minimum working time to be considered as employed as one hour of work over the reference period (one week or one day). This very large condition allows to define unemployment accordingly as the total lack of work. This condition, like that of the age limit or the reference period, is arbitrary and could be modified according to the research topic or the data available. For example, the reference population used by Eurostat to calculate the *in-work at-risk-of-poverty rate* is composed of the individuals who declared to be employed ‘for more than half the total number of months for which information on any status is available during the income reference period’.<sup>51</sup> The reference period is one year.

Academic studies have shown that using different definitions of a worker lead to different results in terms of in-work poverty.<sup>52</sup> The more demanding a criterion on employment is, the more workers in less-stable employment arrangements are excluded from the statistics. Definitions may also change the gender structure of the working poor population, especially in countries where the working time of men and women differ greatly. In addition, the definition of a worker can have an important effect on the evolution of the in-work poverty rate. For example, if the unemployed are not taken into account in the definition of a worker and if the number of unemployed increases after a crisis (especially if the newly unemployed are the former low-paid workers who are more likely to be working poor), a fall in the in-work poverty rate can be observed, but this does not mean that the economic situation of the population is improving. The definition of a worker is a key question when focusing on vulnerable and under-represented groups of workers as in this book because part of them may be excluded if the definition of workers is strict in terms of duration of employment periods.

To sum up, the *in-work at-risk-of-poverty rate* used by Eurostat measures the share of workers (in employment at least 7 months during the year of reference) who are in a household living below the poverty line. In-work poverty is therefore a concept that has both an individual (work) and collective (household needs and resources) dimension. Also, as mentioned in previous sections, being in-work poor does not

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50. *Ibid.*, para. 9.

51. Laura Bardone & Anne-Catherine Guio. *In-work poverty – New commonly agreed indicators at the EU level*, Eurostat, Statistics in Focus, 5/2005, p. 2 (2005).

52. See, for example, Sophie Ponthieux, *Assessing and analysing in-work poverty risk*, in *Income and living conditions in Europe*, 307-328 (Anthony Atkinson & Eric Marlier eds., Office for Official Publications of the European Communities, 2010); Eric Crettaz, *Poverty and material deprivation among European workers in times of crisis*, *International Journal of Social Welfare*, 24, 312-323 (2015); Henning Lohmann, *The concept and measurement*, *supra* n. 48.

necessarily mean having a low wage or a precarious job, but may be related to high needs of the household and/or low work intensity of other household members. Conversely, a person with a low wage may not be poor because the income of other households and/or the level of national social protection of workers is high and allows the household to exceed the poverty line. As a result, the factors explaining in-work poverty are more complex than only labour market characteristics and low-paid employment. Therefore, the fight against in-work poverty does not only involve measures on employment but also more general policies such as access to childcare to allow parents to work, family policies to compensate for the presence of children, etc.

### [C] Alternative Measures of Poverty

Measuring poverty by income can be criticized. Many scholars have highlighted that the well-being of an individual, and hence inequality and poverty of a population, is dependent on many dimensions of human life, such as housing, education, life expectancy, and income is just one of these dimensions.<sup>53</sup> Alternative indicators have therefore been developed to address this reality.<sup>54</sup> This section describes those used by Eurostat.

To include others dimension than income to measure economic vulnerability, the EU has adopted the *material deprivation index*. Material deprivation is defined as ‘*the inability to afford some items considered by most people to be desirable or even necessary to lead an adequate life*’.<sup>55</sup> The difficulty with this kind of indicator is to determine the list of material elements considered necessary for a decent life. The Social Protection Committee of the European Commission has defined the *material deprivation rate* as the share of the population living in households not able to afford at least three out of the following nine items:<sup>56,57</sup> 1) to pay rent or utility bills; 2) to keep home adequately warm; 3) to face unexpected expenses; 4) to eat meat, fish or a protein equivalent every second day; 5) to have a week’s holiday away from home, or could not afford (if wanted to); 6) having a car; 7) having a washing machine; 8) having a colour TV; 9) having a telephone.

A variant of this indicator measures the *severe material deprivation (SMD)* if at least four (instead of three) items are lacking.

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53. See Peter Townsend, *Poverty in the United Kingdom* (Penguin, 1979); Amartya, Sen, *Inequality Re-examined* (Harvard University Press, 1992).

54. For a review of some of them, see Agnieszka Swigost, *Approaches towards social deprivation: Reviewing measurement methods*. Bulletin of Geography. Socio-economic series (38), 131-141 (2017).

55. Eurostat, Glossary: Material deprivation, Statistics Explained, 2021. [https://ec.europa.eu/eurostat/statistics-explained/index.php/Glossary:Material\\_deprivation](https://ec.europa.eu/eurostat/statistics-explained/index.php/Glossary:Material_deprivation) (last accessed 15 Dec. 2021).

56. Note that the indicator looks at the household’s ability to afford some goods and services. For example, if a household does not have a colour TV by choice but is able to afford one, it is not going to be considered deprived for colour TV.

57. Social Protection Committee – Indicators Sub-Group, Portfolio of EU social indicators for the monitoring of progress towards the EU objectives for social protection and social inclusion: 2015 update (Publications Office of the European Union, 2015).

The *material deprivation index* is an absolute index of poverty and common to all EU countries. As opposed to the ‘*at-risk-of-poverty*’ rate discussed earlier, the material deprivation index does not depend on the entire distribution of the variables of interest. The list of items considered in the material deprivation index is somewhat arbitrary, and alternatives may be preferred. For example, Guio, Gordon, and Marlier proposed a statistically more accurate and adequate index to measure deprivation in Europe.<sup>58</sup> This alternative measure is called *social and material deprivation index* at the EU level. This indicator includes some deprivation in some more social aspects of life. Social deprivation can be seen as a situation in which an individual cannot fully participate in the life of the community, while material deprivation is the situation in which an individual cannot live with dignity.<sup>59</sup> To this end, the *social and material deprivation index* is composed of 13 items including variables related to community life. Some items are measured at the household level and others at the individual level.<sup>60</sup> At the household level the items are: 1) face unexpected expenses; 2) one week annual holiday from home; 3) avoid arrears (in mortgage, rent, utility bills, and/or hire purchase instalments); 4) afford a meal with meat, chicken, or fish or vegetarian equivalent every second day; 5) keep their home adequately warm; 6) a car/van for personal use; 7) replace worn-out furniture. The list of individual items includes: 8) replace worn-out clothes with some new ones; 9) have two pairs of properly fitting shoes; 10) spend a small amount of money each week on him/herself (‘pocket money’); 11) have regular leisure activities; 12) get together with friends/family for a drink/meal at least once a month; 13) have an internet connection. An individual suffered from *material and social deprivation* if he/she could not afford (whether he/she wants it or not) at least 5 items out of the 13.

To integrate employment into the analysis of socio-economic disadvantage of household, the EU uses the indicator of work intensity. If the total number of months (in full time equivalent and over the last 12 months) worked by working age individuals (18-59 years old, excluding students aged 18-24) in a household is less than 20% of the theoretical number of months that can be worked by these members, then the household is considered to be at *very low work intensity* also known as (*quasi-*) *joblessness* household. The indicator of *people living in households with very low work intensity* used by Eurostat therefore measures the proportion of persons under 60 living

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58. Anne-Catherine Guio, David Gordon, & Eric Marlier, *Measuring material deprivation in the EU: Indicators for the whole population and child-specific indicators*. Eurostat Methodologies and working papers (Office for Official Publications of the European Communities, 2012); See also Anne-Catherine Guio et al., *Improving the measurement of material deprivation at the European Union level*. Journal of European Social Policy, 26, 219-333 (2016); Anne-Catherine Guio & Eric Marlier, Amending the EU material deprivation indicator: impact on size and composition of deprived population, In *Monitoring social inclusion in Europe 193-208* (Anthony Atkinson, Anne-Catherine Guio & Eric Marlier eds., Publications office of the European Union, 2017).

59. For a deeper discussion on deprivation, see Peter Townsend, *Deprivation*, Journal of Social Policy, 16(2), 125-146 (1987).

60. Eurostat, Glossary: Material and Social deprivation, Statistics Explained (2021). [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Severe\\_material\\_and\\_social\\_deprivation\\_rate\\_\(SMSD\)](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Glossary:Severe_material_and_social_deprivation_rate_(SMSD)) (last accessed 15 Dec. 2021).

in a *quasi-joblessness* household.<sup>61</sup> This indicator may reflect difficulties in entering or staying in the labour market. Since labour income is the primary source of income for the majority of households, a low level of work intensity increases the vulnerability to poverty. At the same time, employment is also a means of social integration and the lack of work can lead to social deprivation as well. This indicator is measured at the household level because the (quasi-) absence of work for one household's member can affect the well-being of other household's members.

To conclude, it has been shown that measuring poverty is difficult because of its multidimensional and dynamic nature. Choices must be made in order to follow this phenomenon over time. At the European level, the leading indicator is the *at-risk-of-poverty* rate, which is a monetary and relative measure of poverty. However, another indicator, the *at-risk-of-poverty or social exclusion*, is used in Europe to extend the measurement of poverty to dimensions other than income. This indicator integrates not only the *at-risk-of-poverty* indicator but also the *severe material deprivation* and *very low work intensity* into a single indicator. All of these indicators can be declined at the level of workers and thus complete the indicator of *in-work at-risk-of-poverty rate*.

#### [D] In-Work Poverty: Limits and Measurement Issues

The previous sections explained that defining poverty and defining work is not easy, but yet another important difficulty exists: the collection of data needed to calculate these indicators and their inherent limitations.

Poverty and social exclusion indicators are measured at the EU level using the EU-SILC survey. The EU-SILC survey interviews every year a sample of households and individuals about their income, their living conditions, and their labour market situation. In addition to being rich in information, this survey has the advantage of having a harmonized structure at the European level, which facilitates international comparisons. However, surveys have often the disadvantage of not covering the population as a whole like homeless or people living in institutions (prisons, hospitals, etc.). In addition, survey data can also suffer from measurement error (e.g., error in the level of income received by the household in the reference year).<sup>62</sup> In addition, the temporality of the data is another important issue. The time it takes for data to be collected and processed means that they are available only for two or three years after the survey. The evolution of poverty is therefore observed with a certain delay.

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61. The upper age limit of 60 is questionable but has been retained for the calculation of the official indicator. For a discussion, see Terry Ward & Erhan Özdemir, *Measuring low work intensity – An analysis of the indicator*, (ImPRovE Discussion Paper n° 13/09, 2013); Sophie Ponthieux, Risk of poverty or social exclusion over time: a focus on (quasi-) joblessness, in *Monitoring social inclusion in Europe*, 299-315 (Anthony Atkinson, Anne-Catherine Guio, & Eric Marlier eds., Publications office of the European Union, 2017).

62. In some countries, survey data are linked to administrative data for more reliability. Readers interested in the details of the method used in this survey may refer to Emilio Di Meglio et al., Investing in statistics: EUSILC, in *Monitoring Social Inclusion in Europe* 51-61 (Anthony B. Atkinson, Anne-Catherine Guio & Eric Marlier eds, Luxembourg: Publications Office of the European Union, 2017).

Recently, *nowcasting* methods have been developed to determine the current value of indicators based on past values and assumptions of changes in demographics, labour market, and macroeconomics conditions, but these complex methods are beyond the scope of this chapter.<sup>63</sup> Finally, in EU-SILC, the reference year for income and employment history is the calendar year before the survey, while the data on living conditions and the demographic structure of the household refer to the survey year. It is then assumed that employment and incomes do not change rapidly over time, and that the use of employment and income data from the previous year is a good approximation of the current situation. This hypothesis, defensible in ‘normal times’, is less credible in times of crisis when transitions are more numerous.<sup>64</sup> All these limitations should be kept in mind when discussing the indicators.

### §1.03 VULNERABLE AND UNDER-REPRESENTED PERSONS (VUPs): A METHODOLOGICAL TOOL TO STUDY IN-WORK POVERTY

It is now time to turn to the most original contribution of the present book to current research: its focus on specific clusters of workers that are particularly vulnerable in the labour market, labelled as VUPs.

VUPs or VUP Groups stands for ‘Vulnerable and Under-Represented Persons’. The research Project ‘Working, Yet Poor’ has identified four groups of workers that are especially vulnerable to experience a higher risk of in-work poverty. These are low- or unskilled employees with standard employment contracts employed in poor sectors (VUP Group 1), solo and dependent self-employed persons and bogus self-employed (VUP Group 2), flexibly-employed workers (VUP Group 3), and casual and platform workers (VUP Group 4). The focus on VUPs is a conscious methodological option. As research and empirical data show, in-work poverty is not evenly distributed across the labour market.<sup>65</sup> Some particular groups are disproportionally affected by in-work poverty, whereas for others the risk of in-work poverty is much lower.

The institutional and regulatory framework plays a role in the uneven distribution of in-work poverty across the labour market, in defining and perpetuating differences among different groups of workers. Key aspects include the type of contract, collective bargaining coverage, structure of the companies operating in a given sector, etc. The study of these aspects and their impact on in-work poverty levels may shed light on the role of regulation in the prevalence and persistence of the phenomenon.

At policy level, the idea that in-work poverty affects with more intensity particular groups of workers is also becoming more relevant. In this sense, in the 2021

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63. See, for example, Jekaterina Navicke, Olga Rastrigina, & Holly Sutherland, *Nowcasting Indicators of Poverty Risk in the European Union: A Microsimulation Approach*, Social Indicators Research, 119(1), 101-119 (2014).

64. Terry Ward & Erhan Özdemir, *Measuring low work intensity*, *supra* n. 61.

65. One of the key findings of the European Social Policy Network report on in-work poverty is precisely that ‘in certain categories of the population the risk of in-work poverty is significantly higher’. See Ramón Peña-Casas et al., *In-work poverty in Europe*, *supra* n. 2, p. 10.



EP Resolution shows an awareness of this reality in statements such as ‘*some categories of workers (...) are at particularly high risk of in-work poverty and social exclusion*’; ‘*workers affected by in-work poverty often work in jobs with unacceptable working conditions, such as working without collective agreement (...)*’ or ‘*overall, part-timers, and in particular involuntary part-timers, have a higher poverty risk when combining different risk factors, including a low wage, unstable jobs (...)*’,<sup>66</sup>

In the same EP resolution, particular attention is devoted to atypical employment:

‘whereas a correlation has been found between the rise in non-standard forms of employment and the increased proportions of Europeans at risk of in-work poverty; whereas 16,2% of those working part-time or on temporary contracts are more exposed to the risk of in-work poverty, compared to 6,1% of those on permanent contract’; ‘whereas the contraction of employment during the financial crisis in 2008 created a dramatic increase in the number of people in atypical employment, short-term work and part-time employment, including involuntary part-time; whereas part-time workers are most likely to work in basic or lower-level service occupations and sectors and have among the highest in-work poverty risk levels (...)’.<sup>67</sup>

It seems therefore useful to draw the attention on those particular groups that are more at-risk of in-work poverty. This will allow a more targeted approach that may offer valuable information on the institutional factors influencing in-work poverty.

This approach may also be more effective, since only those particular clusters in the labour market that concentrate on a higher percentage of in-work poor are under scrutiny. Arguably, such targeted approach will also be more successful in detecting the very concrete and particular problems that may affect the identified groups. Furthermore, the potential solutions and policy proposals to tackle in-work poverty arising from a targeted approach are more likely to be responsive to the particular circumstances and problems of the VUP groups.

With the focus on the VUP groups, the present book proposes a comparative exercise, where the central goal is to get an accurate and updated picture of how labour laws and social security regulations may influence the levels of in-work poverty for those workers included in the VUP groups.

It is important to keep in mind that the proposed VUP groups do neither correspond to legal categories *stricto sensu*, nor is their composition exactly the same in the different countries although they have in common that they group together workers that are in a more precarious position in the labour market.

The idea of vulnerability, which is at the core of the proposed groups, is rarely a legal category or autonomous legal concept.<sup>68</sup> It can be linked to the idea of precariousness that is explicitly used in the European Pillar of Social Rights connected to abuse

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66. European Parliament, Resolution of 10 February 2021, *supra* n. 1.

67. *Ibid.*, Paras AZ and BF.

68. In some EU Member States, recent laws in the framework of the COVID-19 pandemic have introduced concepts such as ‘economic vulnerability’ (in Spain, Article 5 of Royal Decree Law 11/2020), albeit there is no such general legal concept of vulnerable worker in the EU.

of atypical contracts,<sup>69</sup> although the link between precarity and atypical contracts is not automatic.<sup>70</sup> Even if precariousness is also not an autonomous legal concept, its use is gaining momentum at EU level.<sup>71</sup> In any case, it has an analytical meaning: ‘precarious work’ is used to refer to those employment arrangements that deviate from the normative reference point, represented by the standard employment relationship. More recently, this concept also incorporates the idea of a work arrangement that does not comply with EU, international and national standards and laws and/or does not provide sufficient resources for a decent life or adequate social protection.<sup>72</sup> The latter is the approach taken by the EP in 2017.<sup>73</sup>

The VUP groups identified in this book aim at capturing those clusters of workers for whom the levels of in-work poverty are, statistically, more intense than the average. In this sense, these groups are labelled as ‘vulnerable’. They correspond to those sections of the workforce that are normally associated with precarious work and vulnerability in the labour market, either because their employment status deviates from the standard employment relationship (VUP groups 2 and 3), because they are in jobs that may not provide sufficient resources for a decent life (VUP Group 1) or because their employment arrangements do not correspond altogether to existing legal categories, with the risks normally associated to informal or under-regulated forms of work (VUP Group 4). The definition of the VUP Groups in the present volume builds on the definitions used in the Project ‘Working, Yet Poor’, and more specifically on the operational definitions prepared by a team of researchers of the University of Bologna.

#### **[A] VUP Group 1: Low- or Unskilled Employees with Standard Employment Contracts Employed in Poor Sectors**

VUP Group 1 refers to low- or unskilled standard employment in poor sectors. In defining the boundaries of this group, three concepts are relevant: the concept of employee, the concept of low-or unskilled worker, and the concept of ‘poor sector’.

For the purposes of VUP Group 1 employees are those persons who, under a contract of employment or as a part in an employment relationship, are obliged to perform work or services for another party in return for remuneration and subordinated to this other party. This other party is the employer. Subordination refers to a

69. European Pillar of Social Rights, principle 5, ‘... *Employment relationships that lead to precarious working conditions shall be prevented, including by prohibiting abuse of atypical contracts*’.

70. Carole Lang, Isabelle Schömann, Stefan Clauwaert, *Atypical Forms of Employment Contracts in Times of Crisis* (ETUI, 2013), p. 5.

71. For a study of the legal meaning of ‘precarious work’ at EU and national level see Kenner, J., Florczak, I and Otto, M., *Precarious Work: The challenges for Labour Law in Europe* (Edgar Elgar, 2019).

72. See for a discussion of the concept of ‘precarious work’ in the EU and its evolution Florczak, I and Otto, M., *Precarious work and labour regulation in the EU: current reality and perspectives*, in Kenner, J., Florczak, I and Otto, M., *Precarious Work: The challenges*, supra n. 71.

73. European Parliament resolution of 4 July 2017 on working conditions and precarious employment (2016/2221(INI)).



situation where the following criteria, either jointly or independently, apply: work directions, work control, and integration.<sup>74</sup>

In this group the employment relation corresponds to the ‘normative’ full-time, open-ended employment contract, also referred to as ‘standard’ contract. The goal is to capture here low paid work, excluding those working on atypical contracts, with the objective to get a better understanding of the extent to which low salaries are problematic in relation to in-work poverty.

The notion of low- or unskilled employees refers to employees performing generally basic and repetitive tasks, which require limited autonomy of judgment and of initiative in the execution of the tasks and very little, if any, education or training<sup>75</sup> (see §1.04).

VUP Group 1 is key to define which sectors are poor. Low-wage earners, in statistical terms, are ‘those employees earning two-thirds or less of the national median gross hourly earnings.’<sup>76</sup> Building on this definition, the Project ‘Working, Yet Poor’ considers that a sector is poor when 20% or more of employees within the sector are low-wage earners.

Under these parameters, five sectors have been identified as ‘poor sectors’ at EU level, namely: accommodation and food service activities; administrative and support service activities; arts, entertainment, and recreation; wholesale and retail trade; repair of motor vehicles and motorcycles and other service activities<sup>77</sup> (see §1.04 for more details). Obviously, there are differences among Member States, as reflected in the national chapters in this book.

The element of vulnerability in VUP Group 1 is, therefore, neither to be found in the contractual arrangements, nor in the flexibility within the contract (part-time work, etc.), but rather in the occupation and sector where these workers carry out their activity.

### **[B] VUP Group 2: Self-Employed Persons (Particularly Bogus Self-Employed and Solo/Economically Dependent Self-Employed Persons)**

VUP Group 2 refers to solo- and bogus self-employment, which are two subtypes of self-employed persons. It is, therefore, necessary to define first the concept of self-employed that is implied. For the purposes of VUP Group 2, self-employed persons are

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74. Bernd Waas & Guss H. VanVoss, *Restatement of Labour Law in Europe. The concept of Employee* (Hart publishing, 2017, xxiii). In their definition however, the term ‘work instructions’ is used instead of ‘work directions’.

75. This definition builds on the definitions of the International Standard Classification of Occupation (ISCO-08) from the International Labour Office and the proposal elaborated by the research team of Bologna University for the Working, Yet Poor Project (inspired in the definition offered by the Italian Institute of Statistics, ISTAT).

76. Eurostat, *Earnings statistics*, Statistics explained (2021), [https://ec.europa.eu/eurostat/statistics-explained/index.php/Earnings\\_statistics#Low-wage\\_earners](https://ec.europa.eu/eurostat/statistics-explained/index.php/Earnings_statistics#Low-wage_earners).

77. NACE rev. 2 classification. See EUROSTAT, Statistical classification of economical activities in the European Community, part. IV, Structure and Explanatory Notes, in <https://ec.europa.eu/eurostat/documents/3859598/5902521/KS-RA-07-015-EN.PDF>.

those persons who perform an activity under a contract that is not formally a contract of employment. This definition builds on the binary divide between employees and self-employed in EU law.<sup>78</sup>

Dependent solo self-employed are defined in VUP Group 2 as own-account workers who are completely or mainly engaged by a firm or principal and whose remuneration mainly or totally depends on the income generated from the business relationship with the said firm or principal.

Independent own-account workers, i.e., those working for various clients or firms under a contract of service or of purchase, at their own account and at their own risk, are excluded from VUP Group 2.<sup>79</sup> The dividing line between dependent and independent own-account workers is, however, not easy to be drawn, as there are borderline cases.

The notion of dependency may refer to personal and economic dependency or only to economic dependency. Personal and economic dependency exists when own-account workers perform their work within the principal's organization or in such a manner that allows the employer to have a certain degree of control and/or a certain power to give instructions.<sup>80</sup> Economic dependency, where the self-employed person, although economically dependent on one or a main principal, is autonomously present on the market, and/or uses its own assets and/or is entitled to freely organize their work.<sup>81</sup>

On their part, bogus self-employed persons are those workers that, despite being formally defined as self-employed, perform the same tasks in the same way as those employees employed by the same firm or principal.<sup>82</sup> Here there are two problems, a first one is the difficulty to differentiate between bogus self-employed and solo dependent self-employed.<sup>83</sup> The second is that bogus self-employed are, by definition, not visible in statistics.

Research shows that in the majority of EU countries, solo self-employed often experience a very high risk of in-work poverty, particularly in those countries where many of the self-employed work in the agricultural sector.<sup>84</sup> For this reason, it is interesting to study to what extent labour law and social security regulations affect solo self-employed, and how, in connection to in-work poverty.

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78. See CJEU C-268/99, *Jany and others*, of 20 November 2001 [ECLI:EU:C:2001:616].

79. In *Confederación Española de empresarios de estaciones de servicio*, the CJEU established that service providers are independent traders as long as they determine their own conduct on the market independently from the principal and bear the financial or commercial risks without operating as auxiliaries within the principal's undertaking. See CJEU C-217/05, *Confederación Española de empresarios de estaciones de servicio*, of 14 December 2006 [ECLI:EU:C:2006:784].

80. These workers are, therefore, at the border with bogus self-employment. Nicola Countouris, *The Changing Law of the Employment Relationship*, p. 72 (Ashgate, 2007).

81. This definition builds on Eurofound, *Self-employed workers: industrial relations and working conditions* (European Union Publications Office, 2010). In this case, the problems of delimitation are mostly with independent own-account workers.

82. As defined in paragraphs 36 and 42 of *FNV Kunsten*. CJEU C-413/13, *FNV Kunsten*, of 4 December 2014 [ECLI:EU:C:2014:2411].

83. See this problem, discussing EU law in Nicola Countouris, *The Concept of 'Worker' in European Labour Law: Fragmentation, Autonomy and Scope*, ILJ, Vol. 47, 2018, pp. 211-215.

84. Ramón Peña-Casas et al., *In-work poverty in Europe*, *supra* n. 2, p. 33.

The element of vulnerability in this group arises from the fact that labour law protections, including access to social security, either do not or only partially apply to the solo self-employed, whereas the material situation of many of them, both in the type of work they perform and in the income they receive, is similar to that of employees.

**[C] VUP Group 3: Flexibly-Employed Workers (e.g., Fixed-Term, Agency Workers, Involuntary Part-Timers)**

VUP Group 3 brings together three categories of atypical employment: temporary work, agency work, and (involuntary) part-time work.

Fixed-term workers included in VUP Group 3 are those persons having an employment contract where the end of the employment contract is determined by objective conditions such as reaching a specific date, completing a specific task, or the occurrence of a specific event.<sup>85</sup>

Agency workers included on VUP Group 3 are those persons having an employment contract with a temporary-work agency with a view to being assigned to a user undertaking to work temporarily under its supervision and direction.<sup>86</sup>

The group of involuntary part-time workers includes those employees whose normal hours of work are formally less than the normal hours of work of a comparable full-time worker,<sup>87</sup> being in this situation against their will or due to family care needs.<sup>88</sup>

Research shows that temporary workers, and particularly part-time workers have a much higher risk to experience in-work poverty than indefinite, full-time workers.<sup>89</sup> VUP Group 3 is particularly interesting because atypical employment has increased in the recent years in Europe and because such an increase seem correlated with higher levels of in-work poverty.<sup>90</sup> Besides, the EU level plays a central role in the regulation of these forms of atypical work and, therefore, this group is a logical target for intervention at EU level. Furthermore, the main characteristics of the forms of atypical work included in this VUP Group, such as temporariness (fixed-term work), low work

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85. This builds on the definition in Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work. The definition also includes very short-term contract. See CJUE C-486/08, *Zentralbetriebsrat der Landeskrankenhäuser Tirols*, of 22 April 2010 [ECLI:EU:C:2010:215].

86. This definition builds on Article 3 of Directive 2008/104/EC on temporary agency work.

87. This is the definition of part-time enshrined in Clause 3 of Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work.

88. For the purposes of VUP Group 3, a person is an involuntary part-timer in the following situations: usually works full-time but is working part-time because of economic slack; usually works part-time but is working fewer hours because of economic slack; is working part-time because full-time work could not be found; signed a part-time contract concerning a certain number of hours but works actually longer without being paid for the excess hours (or is paid less than it should be according to the hours actually worked) or is employed on a part-time basis for reasons connected to family care.

89. Eurofound, *In work-poverty*, *supra* n. 6, pp. 18-25.

90. European Parliament, Resolution of 10 February 2021, *supra* n. 1, para AZ and BF.

intensity (part-time work), or contingency<sup>91</sup> (temporary agency work), are very often associated to precariousness and vulnerability.<sup>92</sup>

#### **[D] VUP Group 4: Casual and Platform Workers**

VUP Group 4 finally refers to both casual and platform workers, in an attempt to shed light on the incidence of in-work poverty on this rather heterogeneous group of workers, often described as ‘precarious’. This is not, however, an easy endeavour, given the limitations in the available information. The element of vulnerability in this group has its origins in the lack of (adequate) regulation, resulting in deprivation or very limited access to labour law protections, including access to social security.

For the purposes of VUP Group 4, a casual worker is a person whose work is irregular or intermittent. This includes formally self-employed as well as employees.

The concept of intermittent work refers to short-term contracts concluded to conduct a specific task, often related to an individual project or seasonally occurring jobs. The intermittent worker is required to fulfil a task or complete a specific number of working days.

The category of casual work includes on-call work that involves a contractual relationship in which the principal does not continuously provide work for the worker. Rather, he/she has the option of calling the worker in as and when needed. Some contracts indicate the minimum and maximum number of working hours. So-called zero-hour contracts do not specify minimum working hours, and the principal is not obliged to ever call in the worker.<sup>93</sup>

Finally, platform workers included in VUP Group 4 are those individuals using an app or a website to match themselves with customers, in order to perform specific tasks or to provide specific services in exchange for payment. This notion includes two subcategories: crowdworkers and workers-on-demand via app.<sup>94</sup> Crowdworkers are those persons that complete a series of tasks through on-line platforms (which put in contact an indefinite number of organizations, business, and individuals through the Internet). The nature of the tasks performed on crowdwork platforms varies considerably: they involve microtasks, extremely parcelled activities, usually menial and monotonous, as well as more complex jobs. Workers-on-demand via app are those performing not only traditional activities such as transport, cleaning, and running errands, but also clerical work with the particularity that the match with potential customers or clients is done through an app.

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91. For the concept of ‘contingent work’ in labour law and its usage see Antonio Lo Faro, Contingent work: a conceptual framework, in *Core and contingent work in the European Union: a comparative analysis* (Edoardo Ales, Olaf Deinert and Jeff Kenner eds., Hart Publishing, 2017).

92. Carole Lang, Isabelle Schömann, Stefan Clauwaert, Atypical Forms of Employment Contracts, *supra* n. 70.

93. This definition builds on the work done by the research team of the University of Bologna for the ‘Working, Yet Poor’ Project and on the definitions used in Eurofound, New forms of Employment report (Publications Office of the European Union, 2015).

94. Valerio De Stefano, The rise of the ‘just-in-time workforce’: on-demand work, crowdwork, and labor protection in the ‘gig-economy’, in CLLPJ, 2016.

**§1.04 HOW DOES IN-WORK POVERTY AFFECT THE DIFFERENT VUPS IN THE EU? A STATISTICAL DESCRIPTION**

Given the focus of the present book on the four mentioned groups of VUP groups, we must now examine how they are identifiable in the existing statistical data. Labour market data are generally derived from European Labour Force Surveys (LFS). However, these surveys do not provide an in-depth view of the income and living conditions of the households surveyed. As in-work poverty includes not only labour market status but also poverty and the link between the two, the analysis of VUP groups will focus on EU-SILC data.<sup>95</sup>

To be in line with the European *in-work at-risk-of-poverty* indicator, the population of the VUPs included in our definition is restricted to individuals considered as ‘in-work’. In-work covers the population, aged from 18, living in private households who are declared to be at work ‘for more than half the total number of months for which information on any status is available during the income reference period’.<sup>96</sup> The income reference period in EU-SILC is one year (in most countries, the calendar year before the survey). This definition of a *worker* is more restrictive than in LFS, as it is based on a period of one year and not on a specific moment in time (in the LFS, persons in employment are ‘persons who during the reference week worked at least one hour for a pay or profit gain’ or who were temporarily absent of the job/business).<sup>97</sup> Therefore, the results on the composition of VUPs may differ from one source to another as it focuses on two slightly different populations.

The advantage of the EU-SILC data and its definitions is that they allow for an analysis of the living conditions of households where one member is employed and has been so for most of the year. This avoids including individuals whose income is not representative of their situation in the reference year. For example, if a person has spent 11 months unemployed and 1 month in employment during the reference year, the income over the reference period is more likely to be representative of his/her situation as unemployed rather than as employed. However, this definition may seem arbitrary, and the academic literature has explored alternative methods of defining a person in employment for the purpose of measuring in-work poverty.<sup>98</sup> In the context of this book, the analysis is aligned with the definition used by Eurostat.

In the rest of this section, the words *employment* or *workforce* will refer to those who are considered as ‘in-work’ according to the Eurostat definition. Moreover, the statistics presented are calculated for the 27 EU members (i.e., excluding the United

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95. This report is based on data from Eurostat (EU-SILC, 2007-2019). The responsibility for all conclusions drawn from the data lies entirely with the authors.

96. Laura Bardone & Anne-Catherine Guio. In-work poverty – New commonly, *supra* n. 51, p. 2.

97. Eurostat, EU labour force survey – methodology, Statistics explained (2021), [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=EU\\_labour\\_force\\_survey\\_-\\_methodology#EU-LFS\\_concept\\_of\\_labour\\_force\\_status](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=EU_labour_force_survey_-_methodology#EU-LFS_concept_of_labour_force_status) (last accessed 15 Dec. 2021).

98. See, for example, Sophie Ponthieux, *Assessing and analysing*, *supra* n. 52; Eric Crettaz, *Poverty and material deprivation*, *supra* n. 52; Henning Lohmann, *The concept and measurement*, *supra* n. 48.

Kingdom) from 2007 to 2019 (except for 2007, 2008, and 2009 where data for Croatia are not available).

**[A] VUP Group 1: Low- or Unskilled Standard Employment**

VUP Group 1 includes *low- or unskilled employees with standard employment contracts employed in poor sectors*. To define low- or unskilled employment with EU-SILC, we built on the International Standard Classification of Occupation (ISCO-08) from the International Labour Office.<sup>99</sup> Following this classification, skill is defined as ‘the ability to carry out the tasks and duties of a given job. For the purpose of ISCO-08, two dimensions of skill are used to arrange occupations into groups. These are *skill level* and *skill specialization*’.<sup>100</sup> The classification thus makes it possible to define 4 levels of skill for the occupations:

- Level 1: occupations that ‘typically involve the performance and routine physical or manual tasks’.<sup>101</sup> It includes ‘office cleaners, freight handlers, garden labourers and kitchen assistants’.<sup>102</sup>
- Level 2: occupations that ‘typically involve the performance of task such as operating machinery and electronic equipment; driving vehicles; maintenance and repair electrical and mechanical equipment; and manipulation, ordering and storage information’.<sup>103</sup> It includes ‘butchers, bus drivers, secretaries, accounts clerks, sewing machinists, dressmakers, shop sales assistants, police officers, hairdressers, building electricians and motor vehicle mechanics’.<sup>104</sup>
- Level 3: occupations that ‘typically involve the performance of complex technical and practical tasks that require an extensive body of factual, technical and procedural knowledge in a specialized field’.<sup>105</sup> It includes ‘shop managers, medical laboratory technicians, legal secretaries, commercial sales representatives, diagnostic medical radiographers, computer support technicians, and broadcasting and recording technicians’.<sup>106</sup>
- Level 4: occupations that ‘typically involve the performance of tasks that require complex problem-solving, decision-making and creativity based on an extensive body of theoretical and factual knowledge in a specialized field’.<sup>107</sup> It includes ‘marketing managers, civil engineers, secondary school teachers, medical practitioners, musicians, operating theatre nurses and computer systems analysts’.<sup>108</sup>

99. International Labour Office, *International Standard Classification of Occupations 2008 (ISCO-08): Structure, group definitions and correspondence tables, Volume I* (2012).

100. *Ibid.*, at 11.

101. *Ibid.*, at 12.

102. *Ibid.*, at 12.

103. *Ibid.*, at 12.

104. *Ibid.*, at 12.

105. *Ibid.*, at 13.

106. *Ibid.*, at 13.

107. *Ibid.*, at 13.

108. *Ibid.*, at 13.

For the purpose of the present analysis, the group of low- or unskilled workers is restricted to workers in occupations at level 1 or 2.

Regarding the economic sector of activity, the poor sectors were defined as the least remunerative sectors. Thus, a poor sector is a sector in which more than 20% of employees are low-wage earners. Low-wage earners (following Eurostat definitions) are persons whose hourly earnings (excluding the social contributions and payroll taxes paid by the employer) is less than two-thirds of the national median gross hourly earnings.<sup>109</sup> At the EU level, five economic sectors meet this definition (following the Structure of Earnings Survey from Eurostat):

- (1) Accommodation and food service activities (41.88%, EU 28, 2018).
- (2) Administrative and support service activities (32.60%, EU 28, 2018).
- (3) Arts, entertainment and recreation (24.49%, EU 28, 2018).
- (4) Wholesale and retail trade; repair of motor vehicles and motorcycles (22.70%, EU 28, 2018).
- (5) Other service activities (21.39%, EU 28, 2018).

According to the concepts presented earlier, the members of VUP Group 1 are defined as ‘in-work’ persons having a low- or unskilled occupation and working in one of the five sectors defined as poor.<sup>110</sup>

In 2019, 10.3% of the workforce in EU belonged to VUP Group 1. The share of workers in this group increased slightly from 8.4% in 2008 to 10.3% in 2019. As shown in Table 1.1, compared to all employed, VUP Group 1 members are more likely to be young, women, to have a foreign nationality, and less likely to have a university degree. The level of education of workers has increased in Europe, with the share of employed with a tertiary degree rising from 26.0% in 2007 to 34.9% in 2019. This increase has also affected VUP Group 1, with the share of tertiary graduates rising from 9.5% to 16.5% over the same period.

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109. Eurostat, *Earnings statistics*, Statistics explained (2021), [https://ec.europa.eu/eurostat/statistics-explained/index.php/Earnings\\_statistics#Low-wage\\_earners](https://ec.europa.eu/eurostat/statistics-explained/index.php/Earnings_statistics#Low-wage_earners) (last accessed 15 Dec. 2021).

110. Due to data constraints (sector of activity grouped in EU-SILC), for the data analysis part, low-skilled workers in the sectors *Real estate activities* and *Professional, scientific and technical activities* were also included in VUP Group 1. However, the bias (to include them) should be relatively small as these sectors represent either a low share of total employment (real estate activities) or the share of low-skilled workers is low (Professional, scientific, and technical activities).

Table 1.1 Composition of VUP Group 1 in the European Union (27), in 2019

	<i>All Employed</i>	<i>Employees Only</i>	<i>VUP 1: Employees in Low-Skilled Occupation and in Poor Sectors</i>
<b>Age group (%)</b>			
18-34	26.1	27.5	29.4
35-49	40.3	40.3	41.3
> = 50	33.6	32.2	29.3
<b>Gender (%)</b>			
Women	46.3	48.0	49.6
Men	53.7	52.0	50.4
<b>Nationality (%)</b>			
Country of residence	91.9	91.5	90.0
Other	8.1	8.5	10.0
<b>Education (%)</b>			
Lower secondary/Primary of less	16.7	15.9	21.8
Upper secondary or post-secondary non-tertiary	48.5	48.9	61.6
Tertiary	34.9	35.2	16.5

Source: EU-SILC/Eurostat

Reading guide: Among the employed, in Europe, in 2019, 26.1% are in the 18-34 age group, while there are 29.4% in this age group among the VUP Group 1.

In-work poverty affects 9.0% of workers in 2019 in Europe as shown in Table 1.2. Focusing only on employees, 7.2% of them are in poverty. VUP Group 1 workers are more often affected by poverty compared to the population of employees (7.9% versus 7.2% for the employees). Workers in this group are also more often affected by severe material deprivation (4.3% versus 3.1% for employees) and by material and social deprivation (10.3% versus 7.8% for employees). Over the entire 2007-2019 period, poverty in the VUP Group 1 has fluctuated between 7.0% and 8.4%, while severe material deprivation and material and social deprivation has decreased significantly in recent years. However, this decline in non-monetary indicators is observed for all groups.



Table 1.2 *In-Work Poverty and Deprivation Among VUP Group 1 in the European Union (27), in 2019*

	<i>All Employed</i>	<i>Employees Only</i>	<i>VUP 1: Employees in Low-Skilled Occupation and in Poor Sectors</i>
In-work at-risk-of-poverty	9.0	7.2	7.9
Severe material deprivation	3.3	3.1	4.3
Material and social deprivation	8.1	7.8	10.3

Source: EU-SILC/Eurostat.

Reading guide: Among the employed, in Europe, in 2019, 9.0% are at-risk-of- poverty.

Although in-work poverty is higher for VUP Group 1, all workers in this group are not equally affected by the risk of in-work poverty. Thus, the risk of in-work poverty in VUP Group 1 is higher for women (risk of poverty of 8.1% versus 7.6% for men), for people of foreign nationality (16.9% versus 6.9% for those with the nationality corresponding to the country of residence), and for people with a low level of education (14.3% versus 5.0% for tertiary graduates). Workers who have not worked the whole year are also more affected by the risk of poverty in VUP Group 1 (11.8% against 7.8% for those who have worked the whole year). Other factors affect the risk of poverty, such as household composition. Thus, workers in VUP Group 1 living in a household with more than two children under 18 years of age have a poverty risk of 11.7% compared to 6.6% for those living in a household with no children. Finally, being the only worker in the household generates a risk of poverty of 15.2% compared to 3.6% for workers with more than one worker in the household.

### **[B] VUP Group 2: Solo and Bogus Self-Employment**

VUP Group 2 includes solo and bogus self-employed persons. In EU-SILC, the only distinction available is between self-employed with employees and those without employees. For this reason, the sample of VUP Group 2 is restricted to self-employed without employees. This is imprecise but allows us to get as close as possible to this group given the data constraints.

In 2019, 13.3% of workers in Europe were self-employed. A large part of them were self-employed without employees (8.6% of workers in 2019). The share of workers being self-employed has decreased over the period 2007-2019 from 15.4% to 13.3% for all self-employed and from 10.2% to 8.6% for self-employed without employees. As shown in Table 1.3, compared to the total employed population, self-employed are older, more often men, have more often a low level of education and

less often of foreign nationality. In addition, self-employed without employees are more often employed in low-skilled jobs than the employed or the self-employed (with or without employees).

*Table 1.3 VUP Group 2 Workforce Composition in the European Union (27), in 2019*

	<i>All Employed</i>	<i>All Self-Employed (Including Family Workers)</i>	<i>VUP 2: Self-Employed Without Employees</i>
<b>Age group</b>			
18-34	26.1	17.0	17.1
35-49	40.3	40.4	40.2
> = 50	33.6	42.6	42.7
<b>Gender</b>			
Women	46.3	35.3	35.3
Men	53.7	64.7	64.7
<b>Nationality</b>			
Country of residence	91.9	94.6	94.3
Other	8.1	5.4	5.7
<b>Education</b>			
Lower secondary/Primary of less	16.7	21.3	21.9
Upper secondary or post-secondary non-tertiary	48.5	46.1	46.0
Tertiary	34.9	32.6	32.1
<b>Occupation</b>			
High skill (ISCO-08 level 3 and 4)	42.2	41.3	38.4
Low skill (ISCO-08 level 1 and 2)	57.8	58.7	61.6

Source: EU-SILC/Eurostat.

Reading guide: Among the employed, in Europe, in 2019, 26.1% are in the 18-34 age group, while there are 17.1% in this age group among the VUP Group 2.

As observed in Table 1.4, the self-employed have a much higher risk of in-work poverty than the employed population (23.7% for the self-employed without employees against 9.0% for the employed). Over the entire 2007-2019 period, the self-employed without employees always had a higher poverty rate than self-employed

with employees. Regarding dynamics, the self-employed without employees experienced a risk of in-work poverty greater than or equal to 25% between 2014 and 2017 before declining to 23.7% in 2019. The 2019 value is, however, higher than those observed between 2007 and 2009 for this population. At EU level, the self-employed also have a higher risk of material (and social) deprivation than all employed. The rate of severe material deprivation is 4.8% for the self-employed without employees (against 3.3% for the employed) and the rate of material and social deprivation is 11.7% (against 8.1% for the employed). However, these two rates have been decreasing significantly since 2013.

*Table 1.4 In-Work Poverty and Deprivation among VUP Group 2 in the European Union (27), in 2019*

	<i>All Employed</i>	<i>All Self-Employed (Including Family Workers)</i>	<i>VUP 2: Self-Employed Without Employees</i>
In-work at-risk-of-poverty	9.0	20.8	23.7
Severe material deprivation	3.3	4.1	4.8
Material and social deprivation	8.1	9.6	11.7

*Source:* EU-SILC/Eurostat.

Reading guide: Among the employed, in Europe, in 2019, 9.0% are at-risk-of- poverty.

As with Group 1, all self-employed without employees are not affected by the risk of in-work poverty in the same way. In 2019, men are more at risk of in-work poverty than women in VUP Group 2 (25.5% for men in 2019 versus 21.1% for women). This is also the case for foreigners (33.0% compared to 23.1% for workers having the nationality of the country), people with low education level (38.9% compared to 14.0% for university graduates). This increased risk is also observed for those working part-time and/or in low-skilled jobs. Household composition is also an important factor for this group. Self-employed without employees living alone or being the only one worker in the household have a risk of in-work poverty higher than 30%. The risk of poverty also increases with the number of children (22.1% for self-employed without employees living with no children under 18 versus 27.6% for those living with 2 or more children).

**[C] VUP Group 3: Fixed-Term, Agency Workers, Involuntary Part-Timers**

VUP Group 3 is composed of fixed-term workers, agency workers, and involuntary part-timers. For the statistical analysis, the VUP Group 3 can be decomposed into 2 groups:

- (1) *Temporary workers* defined in EU-SILC as workers with work contract of limited duration including seasonal job and ‘persons engaged by an employment agency or business and hired out to a third party for the carrying out of a ‘work mission’ (unless there is a work contract of unlimited duration with the employment agency or business)’.<sup>111</sup>
- (2) *Involuntary part-timers* is approximated in the data persons ‘in-work’ who spent at least half of the period of work (during the reference period) in part-time work and answered to the question ‘Reason for working less than 30 hours’ with the following reasons:
  - (a) Wants to work more hours but cannot find a job(s) or work(s) of more hours.
  - (b) Housework, looking after children or other persons.
  - (c) Other reasons.

Part-timers in education, disable, who have multiple part-time jobs (total equivalent to a full-time), or who do not want to work more are not considered as involuntary part-timers. The category of involuntary part-timers is not perfectly captured. Some part-timers have worked 30 hours or more (if the legal working time is higher than 30 hours a week), and were therefore not questioned about the reason for part-time, but may be involuntarily part-timer and other part-timers that simply did not answer the question on the ‘reason why’. There is, therefore, a risk of underestimating the total number of involuntary part-timers. It is also important to note that some workers are included in both subgroups: temporary workers who are also involuntary part-timers (in 2019, around one involuntary part-timer out of five is on temporary contract).

In 2019, according to Table 1.5, temporary workers in the EU represent 11.3% of workers and involuntary part-timers 4.9% (with the risk of underestimation explained above). In total, VUP Group 3 thus represents 15.2% of workers. While the share of temporary workers has not varied significantly in recent years (between 11.3% and 11.6% since 2012), the share of involuntary part-time workers has fallen from 5.8% in 2014 to 4.9% in 2019. Compared to the employed population, temporary workers are younger, while involuntary part-timers are more concentrated in the 35-49 age group. Involuntary part-timers (including parents caring for children) are overwhelmingly female (86.7% in 2019). VUP Group 3 workers are more likely to be foreigners compared to the total employed population. They are also more likely to have a low

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111. Eurostat, *Methodological guidelines and description of EU-SILC target variables- 2019 operation*, p. 302 (2020). [https://circabc.europa.eu/sd/a/b862932f-2209-450f-a76d-9cfe842936b4/DOCSILC065%20operation%202019\\_V9.pdf](https://circabc.europa.eu/sd/a/b862932f-2209-450f-a76d-9cfe842936b4/DOCSILC065%20operation%202019_V9.pdf) (last accessed 15 Dec. 2021).

level of education (24.2% have a primary or lower secondary education compared to 16.7% of the employed population) or a low-skilled job (67.5% in VUP Group 3 against 57.8% among employed).

*Table 1.5 VUP Group 3 Workforce Composition in the European Union (27), in 2019*

	<i>All Employed</i>	<i>Temporary Workers</i>	<i>Involuntary Part-Timers</i>	<i>VUP 3</i>
<b>Age group</b>				
18-34	26.1	51.4	23.4	43.2
35-49	40.3	30.3	46.7	35.3
> = 50	33.6	18.2	29.8	21.5
<b>Gender</b>				
Women	46.3	50.1	86.3	60.1
Men	53.7	49.9	13.7	39.9
<b>Nationality</b>				
Country of residence	91.9	85.5	86.7	86.0
Other	8.1	14.5	13.3	14.0
<b>Education</b>				
Lower secondary/Primary of less	16.7	25.3	22.8	24.2
Upper secondary or post-secondary non-tertiary	48.5	44.2	50.6	46.4
Tertiary	34.9	30.4	26.6	29.4
<b>Occupation</b>				
High skill (ISCO-08 level 3 and 4)	42.2	32.8	30.6	32.5
Low skill (ISCO-08 level 1 and 2)	57.8	67.2	69.4	67.5

*Source:* EU-SILC/Eurostat.

Reading guide: Among the employed, in Europe, in 2019, 26.1% are in the 18-34 age group, while there are 43.2% in this age group among the VUP Group 3.

Table 1.6 shows that workers in VUP Group 3 are at greater risk of in-work poverty than the employed population. In 2019, the risk of in-work poverty reaches 15.7% in VUP Group 3 compared to 9.0% in the employed population. The same findings emerge when considering non-monetary indicators. The index of severe

material deprivation in 2019 is 5.6% for VUP Group 3 against 3.3% for the employed and the index of material and social deprivation is 12.4% for the VUP Group 3 against 8.1% for the employed. As with other groups, material (and social) deprivation has been declining for several years.

*Table 1.6 In-Work Poverty and Deprivation Among VUP Group 3 in the European Union (27), in 2019*

	<i>All Employed</i>	<i>Temporary Workers</i>	<i>Involuntary Part-Timers</i>	<i>VUP 3</i>
In-work at-risk-of-poverty	9.0	16.1	17.3	15.7
Severe material deprivation	3.3	6.2	5.3	5.6
Material and social deprivation	8.1	12.7	13.8	12.4

Source: EU-SILC/Eurostat.

Note: Individuals who are in both temporary workers and involuntary part-timers are at higher risk of poverty but are counted only once in VUP 3, which is why the poverty rate is lower in VUP 3 than in the two groups taken separately.

Reading guide: Among the employed, in Europe, in 2019, 9.0% are at-risk-of- poverty.

VUP Group 3 is heterogeneous and not all workers in this group are affected by in-work poverty to the same extent. Thus, in 2019, in EU, men are more strongly affected by in-work poverty in this group than women (17.6% for men versus 14.4% for women). Similarly, foreigners have a risk of in-work poverty more than twice as high as nationals (28.1% versus 13.7% in VUP Group 3). Even if education is a protective factor against the risk of in-work poverty, workers with tertiary education in VUP Group 3 are more affected by poverty than tertiary graduates among the employed (9.1% for university graduate in VUP Group 3 against 4.3% in the employed population). As with the other groups, single-person households are more affected by poverty (26.8% versus 13.2% for those living in a 2-person household in 2019, in the VUP Group 3). Similarly, workers in VUP Group 3 living in a single-worker household are three times more at risk of poverty than those living in a multi-worker household (30.2% versus 8.5%).

#### **[D] VUP Group 4: Casual and Platform Workers**

It is difficult to measure the number of platform workers and no estimate exist for all European countries. However, a research program seeking to estimate the share of platform workers in 14 European countries, calculates that in average for 14 EU

countries, platform work affects around 2% of the adult population.<sup>112</sup> This estimate assumes that a platform worker is a worker who obtains the majority of his/her income from this activity. The rate would reach 4% in the UK, between 2.5% and 3% in Germany and the Netherlands and between 1% and 2% in France, Hungary, Italy, Portugal, Lithuania, Spain, and Sweden. The share of platform workers would be less or equal to 1% in Croatia, Finland, Romania, and Slovakia. Alternatives were tested in this study by defining platform workers less strictly. For example, by defining a platform worker as a worker who performs an activity at least 10 hours per week via platforms, the estimate would be 5.6% of the adult population in Europe (between 6.7% in the UK and 2.7% in Slovakia).

The profile of platform workers is also examined in this study. Platform workers are on average younger than offline workers, but they are also more often men and more often with a high level of education. Moreover, a significant part of platform workers has children to support.

Other studies have also focused on estimating this population in Europe. The results are highly dependent on how platform work is defined.<sup>113</sup> However, all of these studies and the underlying data do not allow to analyse the in-work poverty of these workers, since for that information on the composition of the household and on the income (from work, capital, transfers, etc.) received by all members of the household are needed.

This section has presented statistical information on the VUP groups using data from the EU-SILC survey. Approximations to the definitions of these groups have been necessary because the data do not allow for certain levels of detail. The results presented refer to all countries of the EU with 27 countries. However, European countries are very heterogeneous, whether in terms of economic performance, demographics, social protection systems, or labour market legislation. Therefore, the conclusions and trends presented for the EU as a whole do not necessarily reflect those observed at the level of each EU Member States.

### **§1.05 VULNERABLE AND UNDER-REPRESENTED PERSONS IN A COMPARATIVE PERSPECTIVE**

The present book offers a comparative perspective on the labour law and social security regulations that shape the working conditions of VUP groups. Seven EU Member States are compared, namely Belgium, Germany, Italy, Luxembourg, the Netherlands, Poland, and Sweden.

These countries represent different models in Europe. They are different in terms of size, economy, geography, culture, industrial relations, and welfare State model. Except for the anglo-saxon/liberal model, all the welfare state typologies described in literature are represented: nordic/social democratic (Sweden);

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112. Annarosa Pesole et al., *Platform Workers in Europe* (Publications Office of the European Union, Luxembourg, 2018), <https://ec.europa.eu/jrc/en/colleem> (accessed 15 Dec. 2021).

113. Eurofound, *Employment and working conditions of selected types of platform work*, p. 33 (Publications Office of the European Union, 2018).

continental/conservative (Belgium, Luxembourg, Netherlands, and Germany); southern/familialist (Italy), and eastern european/post-socialist (Poland).<sup>114</sup> The fact that there are four countries of the continental/conservative family helps to illustrate national differences even between countries of a similar geographical area and welfare-state tradition. Indeed, in-work poverty levels are surprisingly varied even between the BENELUX countries, where Belgium (5.1% in 2018) and Luxembourg (11.5% in 2018)<sup>115</sup> have respectively one of the lowest and one of the highest percentages of in-work poverty in the EU.

The comparative perspective proposed in the book is essential to assess the contribution of the different factors (individual, household and, especially, institutional) in different national contexts. Highlighting and comparing similarities and differences in the labour laws and social security regulations allows for a better understanding of the relative importance and impact that different elements have in producing and reproducing in-work poverty. This exercise is developed in a final chapter consisting of a comparative overview of the main findings in the seven national chapters.

In terms of structure, the book is organized into nine chapters. After the introduction (Chapter 1), there are seven chapters presenting the relevant national regulation in the different Member States. These chapters follow a similar structure of analysis, adapted to the national characteristics, to make possible a meaningful comparison. The final chapter (Chapter 9) offers a comparative overview.

As has been explained earlier, the comparison is focused on particular groups of workers: the VUP groups (*see* §1.03). The national chapters have all a similar basic structure. In every chapter, there is an introduction that offers an overview of the national legal framework in connection to in-work poverty, including an explanation on the role of minimum wages, collective bargaining (coverage, role in wage-setting, etc.), and the most relevant social security benefits. Then, the chapters engage with the analysis of the regulation affecting VUP groups. For each of the VUP groups, the national chapters explain their composition at national level, describe the relevant legal framework with a particular impact in a given group, and assess the impact of regulation on the incidence of in-work poverty in each particular group. For VUP Group 3 (atypical work), each of the categories included in the group (fixed-term, agency work, and involuntary part-time) is analysed separately. Finally, the national chapters include a last section with conclusions.

The national chapters show that there are important differences in the incidence of in-work poverty in the different Member States. Consequently, different policy pointers are highlighted in each report.

Belgium is an example of a Member State with a low incidence of in-work poverty, although as in many other places, the proportion of in-work poor has increased in recent years. The chapter shows that working is a good protection against

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114. This typology follows closely the clustering of EU Member States by Wim Van Lacker, *The European World of Temporary Employment, gendered and poor?* See also Eurofound, *In work-poverty*, *supra* n. 6, pp. 12-14.

115. In-work at risk of poverty rate – EU-SILC (ILC\_IW01), year 2018, population 18 years and over.



poverty in Belgium, in a labour market where work intensity is relatively low. Although the indefinite full-time contract is still the best protection against the risk of in-work poverty, the Belgian legislation also has several protection mechanisms in place for the different VUP Group. Still, the chapter shows that certain groups of workers, including those in the different VUP Groups under study, face a high risk of poverty. The authors call for a re-thinking of the Belgian labour and social security laws in order to successfully fight existing problems.

The chapter on Germany describes a country not only with an inclusive labour market and high average wage levels, but also with important inequalities among the working population. Rapidly falling collective bargaining coverage and a jobseekers' regime putting substantial pressure on the unemployed to accept every available job have resulted in a remarkably large low-wage sector. The chapter describes ongoing and recently planned reforms that potentially will help to improve workers' protection against poverty.

The chapter on Italy provides the reader with a rich and detailed overview of in-work poverty in that country. Workers in the different VUP Groups are differently affected by the risk of in-work poverty. Those with indefinite and full-time contracts are better protected, but some problems concerning social security protections for low-wage workers are highlighted. The Italian self-employed are also excluded of some protections and benefits, resulting on a higher risk of becoming working poor than the average employee population. Workers of VUP Groups 3 and 4 are in the worse position, although the report shows recent reforms with the potential to improve the situation.

Luxembourg, despite being a vibrant and well-functioning economy, presents one of the highest levels of in-work poverty in the EU. The chapter explores the causes of this situation against the background of a protective and stable legal framework that, nevertheless, fails to shield atypical workers, particularly temporary and part-time workers, from in-work poverty.

The chapter on Netherlands describes a system where flexible work arrangements are widespread and encouraged while legislation fails to some extent to protect 'flexible' workers. The same goes for solo self-employed, a group that suffers the highest risk of in-work-poverty. On the other hand, workers with indefinite contracts working full time seem to be well protected, even in low-wage sectors. As in other Member States, the chapter shows how in-work poverty has become relevant in policy debates and how recent and planned reforms to tackle the issue are on the policy agenda, mostly through limitations to the most flexible forms of employment and protection to vulnerable solo self-employed.

The chapter on Poland describes a labour law regulation that is limited in its scope of application, therefore leaving many individuals outside its protective umbrella. Indeed, the restrictive interpretation of what constitutes an employment relation limits the potential of labour law to improve workers' income and working conditions. At the same time, there have been some improvements offered by collective labour law even to those formally outside of labour law's scope, such as the self-employed. Within

the boundaries of labour law, an excess of flexibility and the focus of active labour market policies are also problematic.

The chapter on Sweden shows a country where in-work poverty is not perceived as a problem. Relying on an extensive and well-functioning collective bargaining system, low wages and low incomes do not seem to be an issue in Sweden. The problems are to be found, against a legal background that provides ample room for flexibility, in connection to work intensity. The chapter also reports recent reforms that will potentially have an effect on in-work poverty, although very much will depend on the level of involvement of the social partners in their implementation.

The last chapter of the book is a comparative overview of the national perspectives. In this comparative overview, differences and similarities are highlighted, in an attempt to find patterns and identify common problems and best practices, connecting all the findings of the national chapters.