



WORKING YET POOR

Challenges to EU Social Citizenship

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Introduction

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It was late 2018 when we as a group of European lawyers started realising that a relatively new phenomenon was severely affecting the normal functioning of labour markets across the EU. In-work poverty was rampant in most EU countries. Yet, significant differences existed amongst them in terms of in-work poverty levels and the composition of the workforce affected. Even neighbouring countries, or those with a similar economic structure, presented marked discrepancies. Certainly, in-work poverty was significantly more widespread in 2018 than in the previous decade.

An observation of such an emerging trend came with two assumptions to test and, perhaps, falsify.

The first one concerned the unequal spread of in-work poverty across the labour market, since in-work poverty was disproportionately affecting low-skilled workers and economic sectors with a high number of low-wage workers, self-employed, flexible and atypical workers, as well as casual and platform workers. We decided to analyse their situation grouping them into clusters, and we identified four such clusters of Vulnerable and Under-represented Persons. We named them VUPs – as opposed to VIPs – and we continued to examine in-work poverty using the VUP Groups as an analytical tool to see what legal and policy implications could be derived. Throughout this book, the reader will find constant reference to such VUP Groups as an innovative analytical tool to concentrate the legal analysis (and elaborate targeted policy responses) precisely on those who are most affected by in-work poverty in the European context.

The second assumption was that being ‘working poor’ risks undermining the place of an individual vis-à-vis the society they are embedded in, so that their status as citizens of the EU deteriorates. Not only did this called to be repaired, but above all it required a re-conceptualisation of the very concept of EU citizenship, which is currently derivative and lacks any substantive content in terms of social entitlements. Re-thinking EU social citizenship is therefore possible, and much needed.

Based on an amazing consortium of nine universities (Luxembourg, Leuven, Bologna, Frankfurt, Gdansk, Lund, Rotterdam, Tilburg, and Utrecht) and three social rights institutions (OSE (*Observatoire Social Européen*), EAPN European Anti-Poverty Network, and FGB (*Fondazione Giacomo Brodolini*)) coordinated

by the University of Luxembourg, the Working, Yet Poor (WorkYP) project found its way thanks to the generous funding received from the EU research and innovation programme Horizon 2020. The project's activities were carried out between February 2020 and January 2023. The main findings of the project were presented at the WorkYP final international conference held in Brussels in January 2023, opened by Mr Nicolas Schmit (EU Commissioner for Jobs and Social Rights) and Professor Olivier de Schutter (UN Rapporteur on Human Rights and Extreme Poverty). More than 200 people attended the final conference, including academics, social partners, policy makers, NGOs and grassroots campaigners, and ordinary citizens having experienced poverty and in-work poverty.

During the three years of its lifespan, the WorkYP project produced impressive outputs, including 29 deliverables, more than 3,000 pages written, a first book published in 2022 (L Ratti (ed), *In-Work Poverty in Europe. Vulnerable and Under-represented Persons in a Comparative Perspective* (Wolters Kluwer 2022)), around 40 scientific contributions in top class journals at European and national level, five special issues of scientific journals, and five project newsletters.

Those three years have seen the emergence of both previously existing and completely new challenges from a legal, economic, statistical and sociological perspective.

The WorkYP researchers were confronted with the lack of on-time/updated data, a wide variety of legal regimes, and fragmented social security systems. The project also faced the limits of the current statistical indicators of in-work poverty and, in some of the countries investigated, the absence of political and social awareness about this issue.

Several challenges are on the horizon, including responding to demographic change and the future structure of EU societies, developing a longitudinal and lifetime perspective on in-work poverty, carrying out a proper assessment of the impact of the Covid-19 pandemic crisis, and elaborating new indicators of in-work poverty that will be able to integrate more detailed information, such as the migrant/non-migrant variable and the unemployed/underemployed continuum.

This book intends to address some of these challenges and project them towards a future research agenda – one which is capable of grasping the societal changes triggered by the recent crises and finding the most suitable legal responses to them. As will become clear after reading the 11 chapters of this book, a legal approach to in-work poverty confirms the need to adopt a holistic perspective, providing policy responses that function in connection with existing labour law institutions and which recognise the essential function of major stakeholders, particularly social partners.

The book is structured as follows.

In chapter one, Antonio García-Muñoz Alhambra sets the scene by focusing on how in-work poverty is defined and measured in the European context, and outlines its main determinants at individual, household, and institutional level. He provides an account of the increasing attention paid by EU institutions to the

rampant levels of in-work poverty, culminating with the European Pillar of Social Rights (EPSR) and its action plan.

Chapter two by Christina Hiessl provides a comparative overview on the four VUP Groups across the seven countries that have been investigated by the WorkYP project, namely Germany, the Netherlands, Belgium, Luxembourg, Poland, Italy and Sweden. The chapter discusses the role of activation policies, training, minimum wages, and social benefits including income support measures. Hiessl's conclusion is that policy approaches at national level are not exclusively meant as protective measures but are the result of a policy mix which consider a wide array of social risks related to the most vulnerable workers in the labour market.

In chapter three, Mijke Houwerzjl provides an overview of EU law's attitude towards the regulation of the four VUP Groups considered by the WorkYP Project, focusing in particular on the recent EU directive on adequate minimum wages on VUP Group 1 and the three directives on atypical work on VUP Group 3. She furthermore highlights the still undeveloped approach regarding self-employment (VUP Group 2) as well as casual and platform work (VUP Group 4), on which the regulatory initiative is still ongoing. Her conclusion argues that EU harmonisation should be operationalised through the horizontal social clause (Article 9 of the Treaty on the Functioning of the European Union) streamlining social protection across all European policy areas.

Chapter four by Marta Capesciotti and Roberta Paoletti unveils the 'gender paradox' in in-work poverty, in which women's situation is often hidden by the fact that they are second breadwinner and therefore do not emerge from in-work poverty statistics. They furthermore articulate horizontal and vertical segregation as crucial aspects to countering this gender paradox.

In chapter five, Ane Aranguiz explores the idea of an EU social citizenship that is relevant for all and not only for persons who benefit from the protection granted by the EU rules on free movement for workers and professionally active persons. She starts first with the concept of citizenship when it was launched by the EU. She departs from the common underpinning of a value-based 'civitas' among Europeans and the rationale and mandates of the EU as a normative foundation to argue in favour of a more complete citizenship that entails a social dimension as well. She also elaborates on how this idea fits in a multitiered network of citizens, in which the EU plays primarily a complementary role. The chapter ends by relating social citizenship to the EPSR and how this can be used to develop further social action on the European level to combat in-work poverty.

Chapter six by Giulia Marchi provides a compelling analysis of the many concepts associated with wages, including fair and adequate wage, living wage and minimum wage. She considers the EU Directive on adequate minimum wages (Directive 2022/2041) in the context of the recent policy initiatives prompted by the EPSR and argues for the introduction of more accurate indicators on in-work poverty that may consider relative and absolute criteria together, with a view to appropriately assessing the adequacy of wages.

Chapter seven by Eleni De Becker analyses the social security systems regarding their adequacy when providing income replacement benefits for the VUP Groups. Social security systems in EU Member States still largely rely on their traditional design, based on workers with a full-time contract of indefinite duration. This traditional approach in national social security systems does not, however, seem well equipped to deal with the situation of non-standard work and the higher risk of in-work poverty for non-standard workers. The question therefore arises what protection national social security systems currently provide for the in-work poor and if and how such systems should be adapted to provide adequate and sufficient protection for all types of workers. This comparative report on social security tries to answer these questions and focuses on the level of protection provided in case of unemployment and sickness by the selected EU Member States' social security schemes for each VUP Group. The aim of the report is not only to map the level of social protection coverage, but also to look at (possible) impediments in the design of the selected national social security schemes for the VUP Groups.

In chapter eight Ramón Peña-Casas, Dalila Ghailani and Korina Kominou aim to make general policy recommendations for the European Union to tackle in-work poverty, building on the main findings of the WorkYP project, and considering the European Pillar of Social Rights (EPSR) principles as the main reference framework. With their findings, the ambition of the authors is to enhance an effective EU social citizenship. The chapter is structured around five lines of action: how the assessment of in-work poverty in the EU social indicators framework can be improved; how in-work poverty as a cross-sectional concern into all EU socio-economic policies and purposes can be more effectively mainstreamed; how access of low-skilled workers and non-standard workers to learning and training can be improved; how access to social protection for vulnerable workers can be developed; and how a participatory social dialogue on in-work poverty in the EU can be revived and further stimulated.

In chapter nine, Ann-Christine Hartzén and Vincenzo Pietrogiovanni examine the role of social partners in addressing in-work poverty across the seven countries investigated. They highlight how the phenomenon penetrated into social partners' discourse, particularly on the employees' side. They conclusively suggest possible pathways to further embed concrete strategies in social partners' action and the way these may influence policy making.

Chapter ten by Paul Schoukens, Alexander Dockx and Eleni De Becker offers an analysis of socio-fiscal welfare and its relationship with traditional social security schemes. They focus on its possible significance for supporting social security in achieving its goals of safeguarding living standards and combating poverty. The chapter concludes by looking at how the EU could integrate socio-fiscal welfare into its current monitoring of national social security and poverty (plans).

The book concludes with chapter eleven by Luca Ratti, who focuses on the role of legislation to address the many issues relating to in-work poverty. He argues that instead of aiming to reduce in-work poverty, the law has frequently contributed to structuralise it, which emerges now as an endemic characteristic of contemporary labour markets.

