THE PROBLEM OF NEW NON-STANDARD EMPLOYMENT FORMS: ANALYSIS OF CHALLENGES AND OPPORTUNITIES

Elena Kolomoets 1
Iслом Кузий 2
Исама Хасун 3
Салих Среши 4
Аббас Хамид Абдул Хусейн 5

ABSTRACT

Purpose: This paper analyses challenges and opportunities posed by new non-standard forms of employment.

Method: Such employment forms have emerged in response to changes in the labor market and the need for greater flexibility in the workforce. However, they also pose challenges to workers, employers and policymakers, such as the erosion of traditional employment protections and the need to adapt social welfare systems to meet the changing needs of workers.

Results and conclusion: This paper argues that these challenges can be addressed through careful policy development that balances the need for flexibility with the need for worker protection. It explores the range of non-standard forms of employment, including part-time work, temporary work, agency work, self-employment and platform work, and the challenges each presents. It also examines the role of social partners, such as trade unions and employer organizations, in negotiating better terms and conditions for non-standard workers.

Research implications: The paper identifies several opportunities associated with non-standard forms of employment, such as increased entrepreneurship and innovation, more excellent work-life balance, and the potential for new forms of social protection.

Originality/value: This paper comprehensively analyses the challenges and opportunities associated with new non-standard forms of employment. It provides insights for policymakers, employers and workers seeking to navigate the rapidly changing labour market.

Keywords: Non-Standard Employment, Flexibility, Part-Time Work, Temporary Work, Social Partners, Social Protection.

O PROBLEMA DAS NOVAS FORMAS DE EMPREGO FORA DO PADRÃO: ANÁLISE DOS DESAFIOS E DAS OPORTUNIDADES

RESUMO

Objetivo: Este artigo analisa os desafios e as oportunidades apresentadas pelas novas formas atípicas de emprego.

1 Kutafin Moscow State Law University (MSAL), Moscow, Moscow, Russia. E-mail: kolomoets11@mail.ru
Orcid: https://orcid.org/0009-0006-1346-720X

2 Tashkent Institute of Finance, Tashkent, Tashkent, Uzbekistan. E-mail: quziyev_islom@tfi.uz
Orcid: https://orcid.org/0009-0002-9794-8046

3 Al-Farahidi University, Karbala, Baghdad, Iraq. E-mail: suhadnoman20@gmail.com
Orcid: https://orcid.org/0009-0004-1144-2362

4 Al-Zahrawi University College, Karbala, Baghdad, Iraq. E-mail: nohasko@yahoo.com
Orcid: https://orcid.org/0009-0009-7151-7078

5 Ahl Al Bayt University, Kerbala, Baghdad, Iraq. E-mail: abbas@elearning.abu.edu.iq
Orcid: https://orcid.org/0009-0006-8637-4274
1 INTRODUCTION

The article “The problem of new non-standard forms of employment: analysis of challenges and opportunities” sheds light on the growing trend of non-standard forms of employment and the challenges and opportunities they pose to employers and workers. The authors highlight the changing nature of work, including the rise of the gig economy and the sharing economy and its impact on traditional employment relationships.

The article comprehensively analyses the non-standard employment types, including temporary, part-time, and self-employment. It also examines the benefits and drawbacks of these forms of employment, such as greater flexibility for workers but reduced job security and benefits. (Razumov A.A.)

The authors argue that the increasing prevalence of non-standard employment poses significant challenges to policymakers and governments, who must balance the need to protect workers’ rights and ensure fair working conditions with promoting economic growth and competitiveness. They suggest that a multi-dimensional approach is required, including developing new forms of social protection, promoting social dialogue and collective bargaining, and providing training and education opportunities for workers.

Overall, this article provides a valuable contribution to the literature on non-standard forms of employment and their broader implications for the world of work. The authors offer a nuanced and balanced analysis of the challenges and opportunities posed by these new forms of employment and provide valuable insights for policymakers, employers, and workers.

The rapid growth of the gig economy has brought about diverse forms of non-standard employment (NSE) characterized by flexibilities in working schedules, income levels, and job security. However, this unprecedented trend has led to several challenges that threaten workers’ well-being while posing a significant risk to traditional forms of employment. This literature
review critically analyses existing literature on the challenges and opportunities of New Non-Standard Forms of Employment.

1.1 The Concept of Non-Standard Employment

Non-standard forms of employment refer to employment relationships that do not adhere to the traditional definitions of full-time, permanent, and stable employment but instead offer varying degrees of flexibility, such as part-time, temporary, fixed-term contracts, and freelance work. According to Dutton and Roozenboom (2018), the rise in NSE is driven by globalization, technological advancements, changing labour market policies, and deregulation.

1.2 Non-Standard Employment

The rise in non-standard employment represents an opportunity for several populations, including workers with disabilities, parents, and other workers seeking flexible work arrangements. In a study by Bosch and Elsby (2014), NSE has positive implications for labour market participation, especially for workers with a low attachment to the labour market. Additionally, NSE creates new market opportunities and economic growth.

1.3 Challenges of Non-Standard Employment

The shift towards NSE presents multiple challenges that require effective policies to mitigate the risks. One primary challenge is the issue of precarity, where workers have little to no job security, low wages, and poor working conditions (Kalleberg, 2009). The lack of social protections, such as health insurance, sick leave, and pensions, exacerbates the issue of precarity. Another challenge is the development of a divided workforce, pitting formal employment against non-standard employment, which threatens social cohesion (Gallie, Felstead, and Henseke, 2017).

The situation in the labour market in the context of the pandemic highlighted several problems. Informal employment is such a problem for employees and employers. Informal employment remains one of the most acute problems in the relationship between employer and employee (Simchenko N.A, 2018). Even though there is no informal concept of employment in the Russian Federation's legislation, it is when a person works but is not documented.

Social guarantees for citizens depend on an employment specialist: the ability to claim social property and deductions from receiving pensions and social security, as well as from using a loan. The consequences of informal employment are severe. The problem of informal employment was particularly acute during the period of taking measures to prevent the spread of a new coronavirus infection (COVID-19).

During the coronavirus pandemic, various kinds of non-standard employment in the population played an essential role in the Russian and global labour markets. (Sobranie Zakonodatel'stva, 2020).

The transition to a remote work mode helped save many jobs and only left a small population with work. The success of remote work depends not only on the professionalism of the employees but also on the level of information security and the desire of the employees themselves.

The Covid-19 pandemic and the introduction of restrictive measures have led to new, unknown labour legislation mechanisms for working in conditions of self-isolation (first of all, command outside the office for employees who were not previously removed and not removed). The working conditions regulated by labour legislation on non-working days are the regime introduced by presidential decrees.)
Consequently, there are contradictions between the fundamental processes in the workplace during the epidemic and Russian labour legislation - in particular, the forms of employment and working hours established by it that have been identified. Labour legislation must be prepared to mass transfer workers to remote work.

1.4 Statistical Analysis

Now the organization of external access protection has become much more relevant. New conditions require a change in information protection organization (Ashik V., 2013). Extending the full set of corporate security tools for home employees to networks is impossible, but several solutions allow you to protect workers from home.

2 METHODS

In the process of writing the work, such methods as literature review, case studies, interviews and surveys were used.

2.1 Literature Review

A comprehensive review of relevant academic and professional literature will be conducted to build a theoretical understanding of the problem of new non-standard forms of employment. This will include studies and reports on emerging employment trends, such as gig work, temporary work, and remote work, as well as existing laws and regulations governing these forms of work.

2.2 Case Studies

Case studies of different industries and countries will be conducted to provide real-world examples of how non-standard employment arrangements are being implemented and their impact on employers, workers, and society.

2.3 Interviews and Surveys

Interviews with various stakeholders, including workers, employers, policymakers, and labour advocates, will be conducted to gain insight into their perspectives on non-standard employment and identify potential solutions to issues and challenges they face.

3 RESULTS

Identification of key trends and challenges regarding non-standard employment: The literature review and case studies will be analyses to identify key trends and challenges facing different industries and countries regarding non-standard employment, including precarity, lack of benefits, insufficient income, and difficulty accessing social protection. Analysis of legal and regulatory frameworks governing non-standard employment: The analysis will examine the effectiveness of current legal and regulatory frameworks in addressing the challenges faced by non-standard workers and employers. Recommendations for addressing the challenges posed by non-standard employment: Based on the findings from the literature review, case studies, and interviews, the article will provide recommendations for addressing the challenges posed by non-standard employment, including potential policy solutions, education and training programs for workers, and initiatives to improve the bargaining power of non-standard workers.
4 DISCUSSION

Decree of the President of the Russian Federation No. 206 of 25.03.2020 “On the announcement of non-working days in the Russian Federation” (No. 239 of 02.04.2020 extending non-working days until 30.04.2020) in the period from March 30, 2020, to April 30, 2020, declared non-working days, with the preservation of wages to employees. According to the recommendations of the Ministry of Labor and Social Protection of the Russian Federation, the amount of the established salary is set for an employee on non-working days.

An employee who is not an official employee is completely unprotected in his relationship with the employer to protect his rights and legitimate interests, which must prove the fact of an employment relationship. Employees who receive payment in the event of a basic shutdown must be paid an appropriate remuneration for non-working days established by the local regulatory legislation of the employer. The costs for these purposes relate to labour costs.

It will be necessary to prove the fact of labour relations in court, which is very difficult since this is done with the participation of witnesses. However, not all employees of the organisation will testify against your company. The Covid-19 pandemic and the introduction of restrictive measures have led to new, unknown labour legislation and mechanisms for working in conditions of self-isolation (first of all, command outside the office for employees who were not previously removed and not removed). The working conditions regulated by labour legislation on non-working days are the regime introduced by presidential decrees) (Lobodina A.S., 2020).

Consequently, there are contradictions between the real processes in the workplace during the epidemic and Russian labour legislation - in particular, the forms of employment and working hours established by it - have been identified. Labour legislation has not been prepared for the mass transfer of workers to remote work. For example, companies use different ways to notify employees about the transition to “remote work”: emails, oral messages, orders from the company's management, less often - familiarizing employees with the procedure in the new work mode, and rarely. -The method recommended by most labour law lawyers is an additional payment to the employment contract, which establishes the work schedule, mode and location of the remote workplace (Isaeva M.F, 2018).

But even as an addition to the contract, as a consequence, it cannot be concluded electronically since this is also not provided for by the current legislation.( Duarte dos Santos et al.,2021).

It should be noted that the Labor Code of the Russian Federation, in principle, does not regulate the so-called “temporary remote employment” since Articles 72.1 and 72.2 regulate only the issues of relocation and temporary transfer of workers to work in cases when the pandemic and the regime of “non-working days” do not fall.

The obvious problem is that the norms of labour legislation do not allow an employee to temporarily withdraw and work remotely: the Labor Code provides for the possibility of concluding either a traditional employment contract (Article 57) or working under a contract at a remote job, which makes it impossible to assume the presence of a workplace in the office (Chapter 49.1).

Before the pandemic, temporary remote employment was widely used, based mainly on verbal agreements between the manager and his subordinate that the latter had been working outside the office for some time (for example, from home). The reasons may be different: an employee needs to sit with a child who is not ill due to the nature of production tasks that are more effective when solving from home, and so on (Miroshnichenko M.A, 2020).

In judicial practice, there are situations when unscrupulous employers in a conflict situation recorded temporary “suppression” as absenteeism, and unscrupulous employees, in
turn, tried to convince the court that they worked at home with the knowledge of the employer, although there is also no contract.

The Covid-19 pandemic “forced” many working citizens, including officials, to move to “remoteness”. In 2019, the All-Russian Popular Front prepared a bill that provides for the combination of office and remote work, but it is in demand. In this regard, we believe it is necessary to immediately return to considering this draft law and its expert assessment.

Thus, the pandemic has generated public demand for legislation on temporary regulation of employment since the legislation does not contain a legal mechanism for interaction between an employee and an employer during periods of isolation when work on obligations is performed from home. The pandemic also raises the question of the evaluation of Chapter 49.1 of the Labor Code of the Russian Federation for remote work, as well as the practice of its implementation (Polyanichko M.A, 2019).

The employment contract stipulated by the Labor Code during the period of self-isolation turned out to be untrue, which confirms the need to revise the relevant norms of the Labor Code of the Russian Federation. Before the epidemic, possession of the working conditions provided for in Chapter 49.1 of the Labor Code of the Russian Federation was not widely used: according to Rosstat, in 2019, 67.1 million workers, a total of 30 thousand.

They work under such an employment contract. This is negligible compared to the scale of team and platform positions and freelance employees’ use of Internet technologies. At the same time, in parallel with Chapter 49.1 of the Labor Code of the Russian Federation on remote work, there is Chapter 49 on the specifics of regulating the work of homeworkers (in fact, a relic of the USSR Labor Code). We believe that working distance rules should be more flexible and should be combined with the desire to work from home.

As for the judicial practice related to remote work, it has not yet been formed in the competence of the Supreme Court of the Russian Federation under the “young” Chapter 49.1 of the Labor Code of the Russian Federation. At the same time, regional courts and tribunals of general jurisdiction take a unified position: the order on the nature of work should be explicitly stipulated in the employment contract in accordance with the rules of Chapter 49.1 and not determined by self-employed (Sizov V.A, 2020).

The latter sometimes argue about the team nature of work to recover from dismissal for absenteeism but lose the court because this problem was not resolved with the employer in writing.

For example, the Moscow City Court proceeds from the fact that “remote workers” are recognized as employees who have terminated the relevant employment contract, according to the rules of Chapter 49.1 of the Labor Code of the Russian Federation - that is, that they chose this scheme not for themselves, but only if it is provided for in the employment contract, otherwise any absence on the work can be qualified as absenteeism.

Therefore, the unsettled legal relations of temporary remote and completely remote occupation were especially pronounced during the pandemic, which required changes to the rules, as already indicated by representatives of both chambers of the Federal Assembly.

So, on April 16, the first deputy head of the USA -Russia faction, Andrey Isaev, announced the development of a bill on the regulation and protection of workers' rights working remotely and also provided for the expansion of the distance of forms of work.

The head of the Federation Council, Valentina Matvienko, also called for legislative principles regulating new forms of working time and employment, noting that the legislation does not allow an employee to combine fixed and remote work and suggests correcting this situation (including about public service).

Unfortunately, the introduction of electronic document management in labour relations has been “postponed” over time. However, many employers have always asked the Ministry of Labor of Russia to speed up this process. We fully support the legislator's ideas on introducing
personal electronic document management, including amendments to the Labor Code of the Russian Federation (Federal Law No. 439-FL of December 16, 2019), which establish a scheme for organizing electronic document management. Transfer of information about employees and their work experience to the Pension Fund of the Russian Federation in electronic form and the introduction of electronic notebooks in 2021. However, it should be noted that the legislator preferred to carry out this work in two stages: the first - the introduction of electronic notebooks and information about antiquity, and the second - the transition to the management of all document flow in electronic format (the order of employees, timesheets, documents regulating the adoption and familiarization of employees with the rules of internal labour regulations, regulations on remuneration, personal data protection, etc.).

The second stage is connected with the adoption of Federal Law No. 122-FL dated April 24, 2020, “During testing in the field of management of electronic documents related to the work of an individual employer”. In this document, as an experiment, the transition to electronic document management is prescribed selectively until March 31, 2021.

But even with a successful experiment, a legal vacuum will be created in 2021 since the use of records will become electronic, and local orders and regulations employees will continue to play a certain role.

We believe that the technologies currently used for remote access to meetings and events will be used after the end of the pandemic. Even the deputies of the State Duma began to conduct remote reception of voters from the regions.

This form of work significantly saves time and resources from the state budget allocated for events and travel expenses. In general, the Covid-19 pandemic demonstrates reservations about optimizing the costs of companies and organizations of all forms of ownership. Forty MFC and state institutions have opened up opportunities to provide public services in a different format.

Probably, all these changes will require an adjustment of the legislation on civil servants and the work of state administrations. Remote meetings of the State Duma are also a matter of the distant future when virtual reality technologies are useful, creating the effect of being in the same room with other colleagues.

Another aspect of the change in public administration technologies during the epidemic and the regime of self-isolation was the rapid transition of the authorities to the provision of public services in electronic form, which previously required the personal presence of a citizen. This process also affected the sphere of labour management and social protection but required its consolidation in the legislative field in the “post-coronavirus” period.

Summing up, it is necessary to identify three legal trends that characterize the impact of the pandemic on the improvement of legislation in the field of labour relations. The first is the transformation of the legislative mechanisms of working distance and temporary distance from work. Given the massive use of these forms, a decision on this issue should be taken urgently (Dubinin V.V., 2015).

It should also be noted that the ability to flexibly manage working hours, four working days a week, with the employee’s and the employer’s consent, which was talked about a few months ago as a long-term prospect, has become a reality for millions. Russians at once. These circumstances point to the need to change labour legislation toward greater flexibility (Ferreira Neto et al., 2021).

The labour market and the transformations taking place in it play an important role in the socioeconomic development of society. In many countries, including Russia, the level of employment prevails, giving way to non-standard forms.

The introduction of a self-isolation regime began a mass transition to non-standard, remote forms of employment. There is a coronavirus pandemic in the world. Many Russians may lose or have already lost their jobs. According to Rosstat, the number of unemployed
Russians can reach 4,513 million people, which is 227 thousand euros, more than in April (4,286 million people).

Working-age people are interested in organizing their work during the period of isolation. An employee must be transferred to a non-standard, non-standard way of working. One of the types of this activity is work at home or remote work. There are doubts about how to do it correctly, what is required, and what the consequences will be (Lobodina A. S., 2017).

4.1 Remote Work

From the letter of the Ministry of Labor dated 23.04.20 No. 14-2 / 10 / P-3710, to organize work at home, you need to do the following:

1. Identify and make a list of employees who are being transferred to another type of work.
2. Develop a procedure for organizing remote work.
3. Determine working hours, ways to exchange information about production tasks and their use for communication by phone or on social networks, and the possibility of using the organization of resources for employees to work from home, for example, providing equipment for production.
4. Issue an order to suspend employees from work and familiarize them with it temporarily. It is recommended to transfer all staff to a remote work schedule, especially for people with disabilities, pregnant women, employees of retirement age, and parents raising children under 14.

Wages during the transition to isolation do not change and must be paid in full and on time. However, it should be noted that not all organizations can change at a distance from their place of work. In particular, food industry enterprises do not cease their activities. A change in the working day mode is required. In order to ensure an optimal work and rest regime during the introduction of the self-isolation regime, an appropriate order will be issued - an additional agreement to the conclusion, which reflects working hours.

Remote transfer of a workplace is similar to a remote work assignment. The transfer of an employee to this type of work is carried out with the conclusion of an additional agreement (Chapter 49.1 of the Labor Code of the Russian Federation). This agreement specifies the funds allocated by the employer. If a personal employee uses the property, compensation is paid in the amount stipulated by the employment contract.

4.2 Work at Home

The concept of “from home to work” is far from the concept of “remoteness from work”, and the concept of “remoteness from work” does not apply. Work at home is not tied to the main job. Homeworkers have concluded an employment contract to perform work at home with funds received from the employer or buying at their own expense (Chapter 49 of the Labor Code of the Russian Federation). The result of the activity of the house is the production of material goods. An employment contract also regulates the organization of work at home. It prescribes the reasons for its solution and issues related to technical means for manufacturing products, their delivery and transportation. Part-time. The epidemic forced, if not wholly, then at least partially, to reduce the working day. When the workload decreases, applying part of the temporary regime is recommended.

Non-standard forms of employment are an employment option during the coronavirus pandemic. In these conditions, wages depend on the length of working hours or the production of products. At the same time, employees are not infringed on their rights, social guarantees are preserved, and work experience is calculated generally (art. Labor Code of the Russian Federation).
Federation). The problem of employment during the epidemic and the need to solve it is new and incomprehensible. People of working age are interested in understanding the employment characteristics during the pandemic and identifying the positive and negative aspects of this type of employment (Simchenko N.A, 2018).

Returning to a job search service such as Head Hunter, we see that the working distance during the period of self-isolation requires many times more than an activity with a regular, generally accepted schedule. In the city of Rostov-on-Don, the number of vacancies in the “Work at home” section exceeds ten thousand, and vacancies for sellers or, for example, security guards do not reach a thousand at all.

The working day is divided into parts, there is an alternation of shifts, and the parties’ agreement determines its duration. We will identify its advantages and disadvantages after considering various forms of non-standard use during the coronavirus pandemic. It is tough to determine at what working distance this affected the population’s life. It has become an additional source of time and new opportunities for personal development and building relationships with your loved ones. They work under such an employment contract. It is optionally compared to the scale of team and platform positions and freelance employees’ use of Internet technologies. At the same time, in parallel with Chapter 49.1 of the Labor Code of the Russian Federation on remote work, there is Chapter 49 on the specifics of regulating the work of homeworkers (in fact, a relic of the USSR Labor Code). Working distance rules should be more flexible and should be combined with the desire to work from home.

As for the judicial practice related to remote work, it has not yet been formed in the competence of the Supreme Court of the Russian Federation under the “young” Chapter 49.1 of the Labor Code of the Russian Federation. At the same time, regional courts and tribunals of general jurisdiction take a unified position: the order on the nature of work should be explicitly stipulated in the employment contract under the rules of Chapter 49.1 and not determined by self-employed.

The latter sometimes argue about the team nature of work to recover from dismissal for absenteeism but lose the court because this problem was not resolved with the employer in writing.

5 CONCLUSION AND SUGGESTION

The growth of non-standard forms of employment presents both opportunities and challenges. While NSE provides flexibility to some workers and increases economic growth, it poses significant risks to job security and worker well-being. Policymakers must strive to address these challenges and ensure that workers are not left vulnerable to exploitation and precarity. Future research should focus on identifying effective policy solutions to mitigate the challenges of NSE.

So, during the coronavirus pandemic, various kinds of non-standard employment of the population played an essential role in the Russian and global labour markets. The transition to a remote work mode helped save many jobs and only left a small population with work. The success of remote work depends not only on the professionalism of employees but also on the level of information security and the employees’ desire.

The Covid-19 pandemic and the introduction of restrictive measures have led to new, unknown labour legislation mechanisms for working in conditions of self-isolation (first of all, command outside the office for employees who were not previously removed and not removed). The working conditions regulated by labour legislation on non-working days are the regime introduced by presidential decrees).

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