

Introduction into the international research project “In Search of a Legal Model of Self-Employment in Poland A Comparative Legal Analysis” – part II¹

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We hereby present to you the result of the work of scholars from various European countries who joined the research project funded by the National Science Centre and led by Tomasz Duraj, titled “In Search of a Legal Model of Self-Employment in Poland. A Comparative Legal Analysis” (amount awarded: PLN 202,440). The project was ranked third in the OPUS 15 programme’s legal panel. Work began in January 2019, and the team was joined by outstanding scholars from various academic centres around Europe: Prof. Catherine Barnard from the University of Cambridge, Prof. Rolf Wank from Ruhr-Universität Bochum, Prof. Gyulavári Tamás from Pázmány Péter Catholic University, Dr Ingrida Mačernytė Panomariovienė from the Law Institute of the Lithuanian Centre for Social Sciences, as well as Prof. Aneta Tyc, Dr Tatiana Wrocławska, Dr Marcin Krajewski, and Dr Mateusz Barwaśny from the University of Łódź.

The chief research objective tackled by the project participants consisted in a complex legal analysis of self-employment – not only from the perspective of Polish regulations and case law, but also with regard to solutions existing in international law, European Union law, and selected European countries. The area of study covered the legal systems of the United Kingdom, Germany, Austria, Spain, France, Italy, Hungary, as well as Lithuania, Latvia, and Estonia. Research design was rather innovative. To date, no large-scale research had been conducted into the legal environment as it pertains to self-employment, encompassing not only the Polish regulations and case law, but also the solutions adopted in international law, European Union law, and the laws of selected European countries. The inclusion of

¹ The monograph was funded by the National Science Centre (agreement no. UMO-2018/29/B/HS5/02534, research project no. 2018/29/B/HS5/02534).

the regulations on self-employment in other countries, processed to fit within in the framework of a structured study, provides added value for Polish legal scholarship.

The final result of the international research project “In Search of a Legal Model of Self-Employment in Poland. A Comparative Legal Analysis” is the two twin studies to be published by Lodz University Press: one in Polish, in the form of a multi-author monograph, and the other one in English, in two parts. The first one has already been published in open access, as an issue of the journal *Acta Universitatis Lodzensis. Folia Iuridica* (vol. 103).² The volume includes papers on: self-employment in view of international law and European Union law (M. Barwaśny); self-employment in view of the laws of the countries that make up the United Kingdom (C. Barnard, D. Georgiou); self-employment in view of German and Austrian law (R. Wank); self-employment in view of Spanish law (A. Tyc); self-employment in view of French and Italian law (A. Tyc), as well as self-employment in view of Hungarian law (T. Gyulavári).

This monograph, in turn, contains five chapters, one introductory and four focusing on findings. Chapter II discusses self-employment in view of the legal systems of the Baltic states (I. Mačernytė Panomariovienė, T. Wroclawska). Chapter III presents an in-depth, multifaceted discussion of the Polish regulations that pertain to self-employment, taking into account the relevant scholarship and case law (T. Duraj). The chapter includes critical comments on the regulatory status quo as it pertains to self-employment in Poland. However, it leaves aside the insurance-related aspects of self-employment, because they are discussed separately in Chapter IV (M. Krajewski). The focus in Chapter IV is first on a theoretical review of self-employment in view of Polish regulations on social insurance, and then on an attempt to devise a uniform, coherent concept of self-employment within the framework of the Polish social insurance system. The monograph ends with Chapter V (T. Duraj), which recapitulates the findings of the research project, and on their basis proposes an optimal legal model of self-employment in Poland, taking into account the Polish scholarship and case law to date, the relevant international and European Union law, and the solutions adopted in the European countries studied within the project. The comments as to the potential future regulatory approaches are designed to help the Polish legislator draft a new law on the legal status of self-employed workers, in order to systematically and comprehensively regulate the key aspects of self-employed work, with particular emphasis on the social protection of the workers. Its implementation will contribute to resolving a number of disputes and clarifying a number of doubts that currently exist in legal scholarship and in case law. The proposed optimal legal model of self-employment in Poland outlined in this chapter has a universal dimension, going much beyond self-employment as such. The research results suggest certain conclusions that offer a springboard for

2 “Acta Universitatis Lodzensis. Folia iuridica” 2023, vol. 103: *In Search of a Legal Model of Self-Employment in Poland A Comparative Legal Analysis. Part I*, ed. T. Duraj, <https://www.czasopisma.uni.lodz.pl/iuridica/issue/view/1759> (accessed: 10.09.2024).

a broader discussion about the future of labour law. They encourage reflection on the need and legitimacy of expanding the applicability of protective regulations of labour law, with a view to bringing under their umbrella various new groups of workers who provide work, independently, outside the employment relationship (in particular under conditions of dependence on the client). The scope of this protection and manner of its differentiation require further critical reflection and development.

Several research methods were employed throughout the project, as befits the multi-layered nature of the necessary research on the legal status of self-employed workers, and as befits the interdisciplinary approach to the issue. The key method was a formal dogmatic approach, which consist in a rigorous, multi-layered analysis of the norms that apply to self-employed workers. Furthermore, the legal comparative method was also applied to a large extent. The regulations in force in the selected legal systems of European countries studied within the research project were evaluated in terms of their potential usefulness for the Polish legal order, and have served as stepping stones towards the development of the legal model of self-employment in Poland. Taking into account the specific nature and special character of labour law, the monograph also engages with the axiological method, which consists in referencing the fundamental values that should guide the legislator in determining the legal situation of self-employed workers. Furthermore, the historical method was also used. It was helpful in demonstrating the changes in the legislator's approach to the protection of self-employed workers, which has resulted in the gradual expansion of labour law. This method is also present in the analysis of the legal mechanisms for preventing and eliminating bogus self-employment.

Throughout the project's duration, its participants published their partial findings in journals and monographs, and presented them at various international and regional conferences. The complete list of the publications and other knowledge dissemination efforts within the research project "In Search of a Legal Model of Self-Employment in Poland. A Comparative Legal Analysis" in the period 2019–2024 is available on the project's website hosted by the Faculty of Law and Administration at the University of Lodz.³ With my heartfelt thanks to the project's participants for their professional expertise and commitment in pursuing the project's objectives, I hereby release into the hands of its readership the second part of the publication as an open-access multi-author monograph.

3 The project's website is: <https://www.wpia.uni.lodz.pl/en/struktura/centra-naukowe/centrum-nietypowych-stosunkow-zatrudnienia/international-research-project-in-search-of-a-legal-model-of-self-employment-in-poland-comparative-legal-analysis> (accessed: 10.09.2024).