

UEAPME¹ reply to the second phase consultation of the Social Partners on a possible action addressing the challenges of access to social protection for people in all forms of employment in the framework of the European Pillar of Social Rights

Key messages

- UEAPME agrees that an update of social security systems is necessary to make them future-proof and respond to labour market developments.
- As the organisation representing entrepreneurs and self-employed in Europe, UEAPME advocates and promotes that they have basic levels of social protection at a reasonable cost. Member States should facilitate subscribing to higher protection levels on a flexible and voluntary basis.
- The diversity of European labour markets, employment statuses, and social protection arrangements, the desires of the different groups, as well as thorough analysis of the reasons for current labour market developments and possible gaps in social protection levels, and the variety of policy options to tackle them in a proportionate way require thorough consideration. UEAPME insists on a careful approach, avoiding premature solutions that fail to grasp the complexity of the issue.
- UEAPME insists on the strict competence of Member States in matters of designing and improving their social protection systems in coherence with their labour market organisation and industrial relations. A careful balance needs to be found at national level that supports entrepreneurship and respects the basic social protection of the self-employed.
- UEAPME sees scope for action at EU level mainly in exchanging best practices between Member States, and drawing attention to possible gaps in social protection. In the context of the European Semester, targets and benchmarks could be developed by Member States to monitor developments.

¹ UEAPME subscribes to the European Commission's Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is [55820581197-35](#).

Introductory remarks

Access to social protection for people in all forms of employment is an important issue. UEAPME fully agrees that **an update of social security systems is necessary to respond to labour market developments and to people's needs in terms of desired flexibility**. Several developments on the labour market lead to the question how social protection systems need to become future-proof and how people in all forms of employment can be adequately protected.

Risk-taking is an essential characteristic of self-employment and entrepreneurship. Therefore, making all elements of social protection mandatory, including also the related contributions, ignores fundamental principles on choice and entrepreneurial freedom. However, **as an organisation representing entrepreneurs and self-employed in Europe, UEAPME advocates and promotes that they have basic levels of social protection at a reasonable cost** and draws attention to the obstacles for entrepreneurship and the difficult situation these groups often find themselves in, created by insufficient access to social protection. Member States should facilitate subscribing to higher protection levels on a flexible and voluntary basis.

UEAPME has repeatedly asked for a **careful approach when addressing access to social protection for all**, taking into account the diversity of the European labour markets, employment statuses, and social protection arrangements, as well as thorough analysis of the reasons for current labour market developments and possible gaps in social protection levels, and the variety of policy options to tackle them in a proportionate way. The increased share of employment relationships classified as 'atypical' or 'non-standard' is in particular due to the **need for more flexible labour markets**, high labour costs, and sometimes even to lack of enforcement of existing rules. UEAPME also insists that the heterogeneity of the groups of self-employed and those in 'non-standard' forms of employment does not allow for quick solutions.

UEAPME insists on the strict competence of Member States in matters of designing and improving their social protection systems in coherence with their labour market organisation and industrial relations. Member States should be able to organise separate systems of social protection for self-employed/entrepreneurs with specific features, tailored to their needs and the reality of their business. A careful balance needs to be found at national level that supports entrepreneurship and respects the basic social protection of the self-employed.

As a consequence, and as indicated in our reply² to the first phase consultation, UEAPME sees scope for the European level mainly in exchanging best practices between Member States, and drawing attention to possible gaps in social protection. In order to monitor developments and make sure that the topic is part of the agenda of Member States, **targets or benchmarks could be discussed by Member States in the context of the European Semester and the open method of coordination**.

The overall starting point of the Commission to ensure access to social protection for all raises several questions. First of all, **genuine self-employed should not be confused with and classified as 'atypically employed persons'**. Self-employed/entrepreneurs do not have an employment relationship but are their own employer in B2B relationships. Despite this, in most Member States robust social assistance 'floors' exist for anyone retiring, falling ill, or becoming unemployed. In any case, without adequate and affordable offer of social protection schemes, 'ensuring' social protection remains theoretical. Any further initiative at EU or national level should take demand *and* offer into account. Secondly, the push for social protection as a global concept for all, ignores the wide range of social protection components, the extent of their coverage, as well as the principle of choice. It is important to be cautious and not come with premature or hasty measures that fail to grasp the complexity of the issue.

² http://ueapme.com/IMG/pdf/UEAPME_reply_to_first_phase_consultation_on_Access_to_Social_Protection.pdf

1. What are your views on the possible avenues for EU action set out in section 4 of the consultation document regarding non-standard workers and the self-employed, including

a. The objectives of coverage, transferability and transparency

UEAPME considers the objectives of sufficient coverage, transferability of entitlements and transparency as adequate, but they should be achieved at the national level.

In addition, it would be necessary to ensure effectiveness of social protection systems for self-employed/entrepreneurs and assess this e.g. by means of benchmarking and periodic monitoring.

b. The options of mandatory or voluntary formal coverage

UEAPME supports and promotes adequate access to social protection for all, including self-employed and entrepreneurs. However, UEAPME insists that it is up to the Member States to decide which types of social protection should be compulsory or voluntary. In principle, anyone who is professionally active should have access to basic levels of social protection. This contributes not only to actually being protected, but also to a level playing field between people in different employment statuses. However, the way to ensure such basic levels of protection, and which parts should be compulsory or mandatory, is for Member States to decide.

For UEAPME, rather than fundamentally choosing between mandatory or voluntary coverage, a 'facilitating' approach is important. A way forward could be that Member States choose to make some types of social protection mandatory – which is strictly for them to decide – but facilitate subscribing to higher levels of protection on a voluntary basis. This depends then largely on the type of social protection. Unemployment insurance itself should in any case remain voluntary for self-employed/entrepreneurs.

UEAPME also points to the heterogeneity of the group of self-employed/entrepreneurs in Europe which relates to the type of contract, sectors, and activities, and the personal circumstances of the individual, and which also leads to different desires in terms of social protection. If Member States decide for a mandatory approach, it is essential to carefully consider the financing method. 'Ensuring' coverage, or making it mandatory, is not for free and is always followed by the question how to pay for it. In fact, the self-employed and entrepreneurs in Europe are often already under the impression that their current entitlements are not proportionate to the paid contributions. Hence, they should not be obliged to increase them further.

UEAPME, representing entrepreneurs and self-employed, advocates and promotes that they have basic levels of social protection at a reasonable cost. Member States should facilitate, incentivise, and remove obstacles for subscribing to higher protection levels on a flexible and voluntary basis. Participation in insurance schemes should be facilitated with offers that are tailored to the needs of the self-employed.

Facilitating subscribing to higher levels of protection needs to be done through adequate and affordable offer of social protection schemes for those who choose to subscribe. **For entrepreneurs, the principle of choice is fundamental** and applies to several types or levels of social protection. In reality, current social insurances are very expensive for entrepreneurs and self-employed, especially when they start their business. Many entrepreneurs and self-employed who would like to subscribe to higher levels, are often held back by the price and conditions set by the providers. Therefore, it is important to remove such obstacles and promote sufficient access to social protection, without creating new barriers.

Finally, mandatory coverage as a deterrent to bogus self-employment, as argued by the Commission in the consultation document, is not the best way to legitimise action in this field. What is typified as 'bogus self-employment' can be tackled by many other measures and policies, and Member States need flexibility in their policy choices. In any case, it should not lead to de facto discriminating self-employment.

c. The appropriate action to ensure effective coverage

Actions for ensuring effective coverage need to be developed at the national level. This requires a careful and proportionate balancing of contributions and entitlements, respecting the element of choice when it comes to self-employment/entrepreneurship.

Effective social protection is usually dependent on the interplay between the different financing methods, carefully balanced at national level. Social protection systems can be based on taxation or contributions or both.

Crucial is also the understanding that effective social protection of people in any form of employment is not achieved through coverage by formal social protection schemes only. Many other factors contribute as well, e.g. (public) services paid for by taxes, or informal assistance.

Effective coverage also implies that the **offer and take-up of social protection schemes are duly taken into account.** Beyond the fundamental parameters of social protection systems as described by the Commission (choice for extending or creating new schemes, how to finance insurance, types of schemes, and eligibility and thresholds), social protection systems function in a much broader context, interacting with a variety of ways in which for instance pension and healthcare institutions are organised, governed, whether they are private or (semi-) public etc.

It is important that under those parameters, the types and combination of schemes (public, occupational, private) are taken into consideration. In particular for self-employed, private savings or insurance schemes play a big role. In addition, hybrid insurance schemes (e.g. so-called 'bread funds') need to be taken into account as well. On similar lines, it can be argued that for calculating the existing level of social protection, in particular for self-employed, other sources of income should be taken into account as well since this is often part of the weighing process in the decision to subscribe to e.g. unemployment insurance.

As for people in non-standard forms of employment, the Commission puts forward that effective coverage is limited because eligibility conditions are linked to permanent full-time salaried employment, which has immediate consequences when people increasingly enter in other employment relationships. For UEAPME, it is important that Member States, very often together with social partners, are able to define the conditions of accessibility to social protection that relate to periods of work, whether full-time or other types of contracts.

d. The minimum requirements appropriate to ensure transferability and transparency

UEAPME supports in principle the objectives of ensuring transferability of rights regardless of the form of employment. However, the principle of subsidiarity needs to be fully respected, since it interferes with national laws and regulations. **Any EU initiative should limit itself to general provisions.**

Transferability of rights, regardless of the form of employment, can certainly support people to move from one to another professional activity, which would better reflect the evolution of the labour market. It is logical that in contributions-based systems, these contributions generate benefits, rights and levels of coverage that can be preserved. However, the conditions have to be set by Member States. They should also be able to make a distinction in the way different benefits, rights, and levels of coverage are acquired for the different types of social protection.

For UEAPME, it is important that the design of the systems allows that social protection of the self-employed is organised separately from schemes for workers in a dependent employment relationship. This would mean in practice that formulas e.g. for calculating benefits follow the rules of the applicable scheme. It is important that Member States can set different minimum requirements for the different types of social protection.

Also, there should be flexibility in the way each type of social protection is organised in this regard, e.g. between pension, health, and unemployment benefits. When people who are in a dependent employment relationship wish to start as self-employed/entrepreneurs, they should keep their right to unemployment benefits from previous periods of employment at least for a certain period allowing them to have some reduced risks as entrepreneurs. Access to the assistance of public employment services should be available to people in all forms of employment.

UEAPME fully supports transparency in social protection systems, as far as it concerns the principle of informing citizens of their accrued entitlements and of the social protection levels in different statuses. It is up to Member States to organise this, and an EU initiative should only provide with general provisions.

2. Are the EU social partners willing to enter into negotiations with a view to concluding an agreement under Article 155 TFEU with regard to any of the elements set out in section 4 of the consultation document?

UEAPME does not see scope for entering into negotiations with a view to concluding an agreement under Article 155 TFEU on these topics.

UEAPME considers that any EU initiative needs to be restrained and cautious in defining parameters for social protection of self-employed/entrepreneurs or people in non-standard forms of employment.

The extreme versatility of the issue – e.g. in terms of developments on the labour market leading to the initiative, the levels and types of social protection, the interplay between demand and offer, the diversity of stakeholders involved, the linkage to other tax and benefit systems, the importance of choice, the different legislative and non-legislative policy options for tackling a possible lack of social protection at national level, and the principle of subsidiarity – does not allow for a detailed, or prematurely defined solution.

Even general provisions at EU level may already infringe on national law and should therefore be kept to a minimum. Member States should be left room for exploring policy options to preserve adequate and sustainable social protection, and deal with developments leading to an increase of ‘atypical forms of employment’.

UEAPME sees scope for the European level mainly in exchanging best practices between Member States, and drawing attention to possible gaps in social protection. In order to monitor developments and make sure that the topic is part of the agenda of Member States, **targets or benchmarks could be discussed by Member States in the context of the EU Semester and the open method of coordination.**

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