

Spasova, Slavina (Ed.); Ghailani, Dalila (Ed.); Sabato, Sebastiano (Ed.); Vanhercke, Bart (Ed.)

## Research Report

Social protection of non-standard workers and the self-employed during the pandemic country chapters: Belgium, France, Ireland, Italy, Lithuania, Portugal, Romania, Sweden

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# Social protection of non-standard workers and the self-employed during the pandemic

Country chapters:

Belgium, France, Ireland, Italy,  
Lithuania, Portugal, Romania, Sweden

Edited by

Slavina Spasova, Dalila Ghailani,  
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European Trade Union Institute

These country chapters are a part of a project which the European Social Observatory (OSE) conducted on behalf of the European Trade Union Institute (ETUI) on 'National policies for the extension of social protection to non-standard employees and self-employed during the Covid-19 pandemic'. The first deliverable of the project (published in March 2021) consisted of a mapping of key social protection measures taken during the pandemic from the perspective of fragmentation of labour market statuses (Spasova *et al.* 2021).

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## Preface

The spread of the Covid-19 pandemic and the consequent adoption of lockdown measures to prevent further infection had severe consequences on European labour markets. All EU governments quickly made unprecedented economic and social support available to tackle the consequences of the pandemic (Baptista *et al.* 2021; European Commission 2021). Regarding social protection and social inclusion measures, in most cases the eligibility conditions of the schemes were relaxed, the benefits were upgraded and ad hoc benefits and innovative measures were introduced (Baptista *et al.* 2021; Spasova *et al.* 2021).

At the same time, the consequences of the pandemic also highlighted that – to rephrase George Orwell’s expression – ‘all workers are equal, but some workers are more equal than others’ regarding access to social protection. The Covid-19 pandemic severely affected some categories of non-standard workers, and particularly the self-employed. The emergency measures cushioned the potentially disastrous effect on their social circumstances, but undeniably highlighted even more the gaps in their access and entitlement to social protection benefits (Eurofound 2021; Pulignano *et al.* 2021).

While the first report of this joint project of the European Trade Union Institute (ETUI) and the European Social Observatory (OSE) mapped the measures taken in relation to unemployment benefits, sickness benefits and leave for non-standard workers and the self-employed (Spasova *et al.* 2021), this edited volume comprises eight country case studies: Belgium, France, Ireland, Italy, Lithuania, Portugal, Romania and Sweden.

These case studies have been produced by independent national experts. They looked into the country-specific situation regarding access to social protection for these categories of workers during the pandemic and provide a detailed description of the measures taken regarding unemployment benefits, sickness benefits and leave, as well as an initial assessment of their effects. This assessment – although currently only partial, as the pandemic measures are still on-going and research is scarce – is a valuable contribution, describing the main issues encountered by some specific labour market groups regarding access to social protection. Importantly, the country chapters also discuss the involvement of trade unions in the development of the recent measures, and in the country’s response to the 2019 EU Council Recommendation on access to social protection. They also consider future perspectives and ways to improve access to social protection.

**Slavina Spasova, Dalila Ghailani, Sebastiano Sabato and Bart Vanhercke**

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# Country chapter Belgium

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## Introduction

The Covid-19 crisis heavily impacted the population in Belgium, both demographically and in terms of the social and economic situation. During the first phase of the pandemic (March – April 2020) a lockdown was declared with stringent health-related measures, including closing down of shops, schools, public places, workplaces and non-essential activities. From May onwards, and especially during the summer, the health measures were gradually relaxed, but from September 2020 until May 2021, due to a new flare-up of the virus, new restrictions on professional and social life were again put in place. The negative consequences of the pandemic have been countered through policy measures to cushion people's income loss or increased expenses. The measures considered in this chapter are those applicable between 1 March 2020 and 1 June 2021. Wage loss was partially offset by the temporary unemployment scheme<sup>1</sup> for employees,<sup>2</sup> made more generous and applied more flexibly, and a special bridging right for self-employed people who, for reasons of force majeure, had to interrupt their activity. Extra benefits for social assistance beneficiaries, energy and water subsidies, extra child benefits and housing support, helped people living on a low income to make ends meet. Unemployment benefits have been extended to better cover (performing) artists and technicians; the gradual reduction of benefits and mandatory job search requirement were temporarily suspended. Special efforts were made to house and support homeless people during the lockdown. Workers who had to take care of their children because of sickness, quarantine or school closures, were entitled to specific parental leave schemes and afterwards to temporary unemployment.

Yet, the Covid-19 crisis has revealed important gaps in the existing social protection system, in terms of both coverage and adequacy. Employees in the lowest quintile in temporary unemployment, including low-skilled or part-time employees, suffered considerable income loss, especially when the temporary unemployment period was longer, whilst many of them had no savings buffer prior to the crisis (Marchal *et al.* 2021). In terms of coverage, certain groups who, prior to the crisis, had no

- 
1. Temporary unemployment (*tijdelijke werkloosheid/chômage temporaire*) is the name of the short-term work scheme in Belgium.
  2. For the purposes of this chapter, we use the following definitions of different types of employment (ILO 2016): Standard employees i.e. full-time open-ended contracts; non-standard workers i.e. contractual employment outside of full-time open-ended contracts (e.g. part-time, temporary contracts, zero-hour, seasonal workers etc.); self-employment, i.e. people working for their own account.

access to social protection measures (such as performing artists and technicians in the cultural and events sector, sex workers registered as self-employed or as employees, temporary agency workers remaining under contract with the user), were granted access to the emergency measures. But others, such as people in flexi-jobs, platform workers not qualifying as regular employees or self-employed, and young people in dual learning programmes, traineeships or student contracts, still fell outside the protection afforded by the emergency measures.

There is a vigorous national debate in Belgium on access to social protection for people in non-standard work. The policy declaration made by the Minister for Social Affairs in November 2020<sup>3</sup> states that the federal government will come up with proposals to ensure better protection of non-standard work in labour law and social protection. In the National Labour Council,<sup>4</sup> discussions are ongoing on access to social protection and the social statute<sup>5</sup> of non-standard work, including platform work. These were triggered by the Constitutional Court's decision to quash the law of July 2018, which created a new statute for the so-called 'share economy', in-between voluntary work and regular employment, and exempt from taxes and social security contributions.

During preparation of the national plan to implement the 2019 Council Recommendation on access to social protection for workers and the self-employed (hereafter the Council Recommendation), an expert report conducted an extensive analysis of the Belgian social security system, referring to the gaps in specific social security schemes for employees and the self-employed, including for non-standard work. Although they were not consulted on the text of the national plan, both the National Labour Council and the General Management Committee of the National Institute for Social Security of the self-employed<sup>6</sup> have given their opinion on the content of the Belgian plan. The plan that was finally adopted focusses on measures announced in the federal coalition agreement: improvement of social protection for informal care givers, childminders, sex workers, requalification of platform work, evaluation of the Covid-19 bridging right for the self-employed, extension of paternal leave, pension reform, administrative simplification, improvement of online services and automatic granting of social rights.

During the Covid-19 crisis, the social partners were involved in the design of national crisis measures via the Economic Risk Management Group (ERMG), a special advisory group of economic experts created in March 2020, to advise the Council of Ministers on work-related matters. In the National Labour Council, agreements were reached on temporary unemployment arrangements and on the organisation of telework. At sectoral level, several collective agreements were concluded to top up workers' temporary unemployment benefits with additional

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3. Belgische Kamer van Volksvertegenwoordigers, Algemene beleidsnota Sociale Zaken, 20 November 2020, Doc 55 1580/003.
  4. The federal body for social dialogue between trade unions and employers' organisations.
  5. This discussion involved whether the workers should be considered as employees, or as self-employed, or as a new category of workers with different social labour rights.
  6. Created by the law of 30 December 1992, to advise and make recommendations on the social status of the self-employed, at the request of the competent ministers or on its own initiative.

financial support. Social partners also played an important role in providing guidance on health and safety at work in companies that continued to produce during the crisis.

Section 1 gives a short description of the main features of three branches of social security and the changes made to these schemes during the Covid-19 crisis: unemployment benefits, sick pay and sickness benefits, and special leave schemes introduced during the pandemic. Consideration is given to non-standard workers amongst the beneficiaries. Section 2 analyses the potential effects of the Covid-19 measures on non-standard employment and identifies forms of non-standard work that still fall outside the social protection system, even during the crisis. Section 3 focusses on the role of the trade unions in the design and implementation of social protection during the Covid-19 crisis. In particular, we highlight policy measures and trade union action with regard to new forms of non-standard work, such as platform work or activities in the sphere of the so-called share economy. Section 4 describes prospects for social protection of non-standard work, based on the national plan in response to the Council Recommendation. Finally, the chapter formulates conclusions on the current situation and prospects.

## **1. Description of measures**

### **1.1 Unemployment benefits<sup>7</sup>**

To be eligible for unemployment benefits, people aged between 18 and 65 must be out of work, not from their own choice, after a period of (fulltime or part-time or at least 1/3 of fulltime) work as an employee and no longer entitled to payment of remuneration (or with limited income from a subordinate or casual activity). They have to be fit for work, registered as a jobseeker, available for the labour market and actively seeking work. Applicants have to prove a certain number of working days in a reference period that differs between different age categories, for work at wage levels of at least the guaranteed minimum wage. The amounts differ according to the duration of unemployment and the family situation.

The minimum benefits in the unemployment scheme can all be considered as inadequate, since they do not guarantee an income above the at-risk-of-poverty (AROP) threshold. The unemployment benefit system is accessible to employees who worked in part-time jobs, on fixed term contracts and who were employed in temporary agency work, provided they fulfil the required qualification period. Young people, over 18 and before turning 25, who have completed secondary education or alternate learning, can access professional integration benefits. These latter benefits are flat-rate. Their amount varies according to family situation, and the level of benefits is generally much lower than those of minimum unemployment benefits. They are awarded for a period of up to 36 months. Before

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7. This section is based on data available from the website of the national office for employment (ONEM), <https://www.rva.be/nl/burgers/werkloosheid/>

receiving professional integration benefits, the beneficiary must follow a 310-day professional integration programme, during which they must prove a period of work (as an employee, self-employed or student-worker), or of training, or show two positive evaluations of active job searching.<sup>8</sup>

#### Levels of unemployment benefits – full-time unemployed persons

**First period:** 65% of capped last salary during the first three months of unemployment. During the nine subsequent months, 60% of capped last salary.

**Second period:** two months, extended for two months per year of past salaried work (up to 36 months) divided into five phases: first phase cohabitants with dependants: 60%; **single persons:** 55%; cohabitants without dependants: 40%. During the next four phases (up to max 24 months), benefits gradually decrease.

**Third period** (after maximum 48 months, duration unlimited): flat-rate benefits (daily amounts): cohabitants with dependants: €54.03; single persons: €43.79; cohabitants without dependants: €22.72.

In 2018, the unemployment benefit system was reformed to enhance the activation impact of the scheme, based on the idea that benefits should decrease more rapidly to incentivise unemployed people to take up work.

Self-employed people do not have access to the unemployment scheme; they have a separate scheme, the so-called 'bridging rights'. These flat-rate benefits – with different amounts for self-employed with or without dependants – can be granted for 12 months in case of insolvency, collective debt arrangement, forced termination of activities for reasons beyond the will of the self-employed individual, and cessation of activities due to economic problems. During this period, they are still entitled to benefits from the sickness scheme, healthcare and child benefits.

The so-called 'share economy', including occasional platform work, paid voluntary work and 'community support work', with a limit placed on income (€6,340 in 2020), does not generate entitlement to unemployment benefits.

During the Covid-19 crisis, for all the unemployed, the gradual reduction of unemployment benefits has been temporarily suspended for the period of the crisis; equally, the duration of receipt of the professional integration benefits for young school-leavers has been extended for the period of the crisis. The job-search obligation was suspended during a short period of complete lockdown.

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**8.** Since the 2012 reform of the unemployment system for young school-leavers, access to unemployment benefits for young school-leavers has become considerably more restrictive, regarding the age limit, the qualification period and the conditions on availability for the labour market. The Belgian Court of Cassation ruled that the limited duration of integration benefits, which replaced the so-called 'waiting benefits' (unlimited in duration), can be considered as a breach of the stand-still principle contained in article 23 of the Belgian Constitution, that protects citizens against restrictions in the degree of social protection without reasons linked to public interest (Court of Cassation, ruling 5 March 2018, S.16.0033.R).

In July 2020, the Chamber approved a law to allow performing artists and technicians in the cultural sector to apply for unemployment benefits, without reduction of their unemployment benefit in case of cumulation with copyrights they may receive during this period. The law freezes the reference period for accessing unemployment benefits (from 1 April 2020 to 30 June 2021) and opens the right to access benefits to a broad professional group in the sector. On 6 November 2020, the federal government also granted access to unemployment benefits to performers and technicians who can prove they had planned 10 artistic or technical performances, or 20 working days between 13 March 2019 and 13 March 2020.<sup>9</sup> This relaxation of the rules, however, does not apply to other workers in occasional employment, who do not qualify for the unemployment benefit system.

The most important extensions of social rights to unemployment benefits have been introduced through the short-term working scheme, the ‘temporary unemployment scheme in case of force majeure’ (see Van Lancker 2021).

Those who are mainly self-employed and who have to stop their activity due to the crisis are entitled to (double) bridging benefits; those who can re-start their activities but face considerable loss of income, can also receive bridging benefits at a lower amount. The bridging right is also available to sex workers who are registered as self-employed. Self-employment as a secondary occupation provides entitlement to half the bridging right, provided the person earns more than €6,994 per year. The emergency bridging right is an extension of the existing bridging right, introduced in 1997, which grants a modest replacement income to the self-employed, mentioned above. The amounts have been considerably increased. The bridging right at re-start is new.

## 1.2 Sick pay and sickness benefits<sup>10</sup>

To be eligible for sickness benefits, employees or unemployed have to show that they have worked for 180 days in a qualifying period of 12 months (for part-time workers, 800 hours in the last 12 months). During the first month of incapacity for work due to sickness, employees have the right to sick pay from their employer, calculated differently for blue-collar and white-collar workers. The latter have to be employed on a standard contract for an indefinite period, or on a fixed term contract for at least three months. White-collar workers on a contract for less than three months and blue-collar workers receive a guaranteed salary provided they have worked continuously for the same employer for one month.

After this period, all employees receive sickness benefits from the health insurance system. During the first year of so-called ‘primary incapacity for work’, employees

<sup>9</sup>. This section is based on data provided on the following websites:  
<https://www.dekamer.be/kvvcr/showpage.cfm?section=flwb&language=nl&cfm=flwbn.cfm?lang=N&dossierID=1154&legislat=55>; [http://www.ejustice.just.fgov.be/cgi\\_loi/change\\_lg.pl?language=nl&la=N&table\\_name=wet&cn=2020122234](http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=2020122234)

<sup>10</sup>. Based on data provided by the national institute for sickness and invalidity (INAMI):  
<https://www.riziv.fgov.be/nl/themas/arbeidsongeschiktheid/Paginas/default.aspx>

receive 60% of their (capped) gross daily wage (with minima and maxima). From the 7<sup>th</sup> month of labour incapacity, minimum sickness benefits are higher for workers on standard contracts than for workers on non-standard contracts. After the first year of primary incapacity, people move to invalidity benefits.

In the event of sickness, unemployed people receive sickness benefits at the same level as their unemployment benefits during the first 6 months, except if these are higher than the sickness benefit calculated at 60% of their last (capped) wage.

The self-employed have their own scheme: they receive flat-rate sickness benefits, at differing amounts according to their family situation: single, cohabitants with or without dependants.

Young helpers to the self-employed,<sup>11</sup> young people with student contracts, most young trainees in dual learning and vulnerable young people employed by accredited associations do not have access to sickness benefits. In May 2021, an agreement was reached to include doctors in training in the sickness insurance scheme: up to then, they had no access to sickness benefits.

During the Covid-19 crisis, from 1 March 2020 onwards, in case of incapacity for work for at least 8 days, the self-employed receive an extra crisis benefit on top of the normal sickness benefit, to ensure that their replacement income equals the level of the Covid-19 monthly emergency bridging right for the self-employed. Also, for employees, sickness benefits were increased to the level of temporary unemployment benefits.

### 1.3 Special 'pandemic' leave

During the Covid-19 crisis, from 1 May to 30 September 2020, with the consent of their employer, employees could apply for special 'corona' paid parental leave (either half-time or for one day per week; for parents with a child with disabilities and single parents also full time, since 1 July 2020). The measure was not continued after that period, but was replaced by the temporary unemployment arrangement, granted without the need for the employer's consent to parents with children who are sick, have to stay in quarantine or whose school has had to close. The population targeted by the Corona parental leave are employees working full time or at least 75%, and who have been working (full-time or part-time, permanent or fixed-term) for their employer for at least one month, who are the parent of at least one child under 12 or one child with disabilities under 21. Temporary agency workers could also apply if they had been employed by the temporary agency for at least one month.

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<sup>11</sup> Young people who work as self-employed and have their own social insurance, who are helping other self-employed without being under a labour contract and for whom the self-employed person does not pay social security contributions. For taxation purposes, they are treated as employees. See *Wat is een zelfstandig helper? - Zelfstandigen in Vlaanderen*.

Corona parental leave was granted as extra leave on top of the normal right to parental leave, and could be combined with normal parental leave. The benefits were 25% higher than normal leave benefits and the application procedure was more flexible. Benefits were flat-rate with an increased amount for single parents (basic amount for 50% part-time for people under 50: €532.24, calculated as a pro rata of previous working time) and for parents with children with a disability (basic amount €861.03 for 50% part-time and €1,277.36 for full-time, calculated pro rata of previous working time).

During the Covid-19 crisis, self-employed people who have to interrupt their activities to take care of their children due to the closing of schools and childcare, or quarantine or isolation of the child, can apply for a special new parental leave bridging right, a flat-rate benefit with increased amounts for single parents and parents with children with a disability; this measure is still in place. The amounts differ according to the duration of the interruption and the contributions paid (e.g. an interruption of between 14 and 20 days for a mainly self-employed person entitles them to €807.05) (Van Lancker and Cantillon 2021).

## 2. Potential effect of these measures on non-standard workers and the self-employed

Social security, in particular the temporary unemployment scheme for employees and the emergency bridging right for the self-employed, generally absorbed the most immediate consequences of the Covid-19 crisis. Nevertheless, especially for lower paid workers, part-time workers and workers who have remained in temporary unemployment for a long time, the decrease in monthly income has had a significant negative impact on the degree to which these households can make ends meet, certainly in the absence of a financial buffer (Cantillon *et al.* 2020; Horemans *et al.* 2020). It is difficult to get a systematic picture of the situation of the self-employed. The Working Group on the Social Impact of Covid-19<sup>12</sup> assumes that the (double) bridging right offers effective support to the income of the self-employed. But the Management Committee for the Self-employed presumes that there has been considerable non-take-up of the measure.

A COVIVAT<sup>13</sup> study calculates that, given the structural inadequacy of minimum wages and minimum benefits, they were just sufficient to cover necessary and urgent expenditure during the lockdown period (necessary expenses and expenses that can be postponed for only a few weeks). For singles, the minimum income is even insufficient to cover all 'unavoidable expenses' for food, housing and personal care (Cantillon *et al.* 2020; Marchal *et al.* 2020).

<sup>12</sup>. monitoring\_covid\_20210616\_nl.pdf (belgium.be).

<sup>13</sup>. COVIVAT is a Research consortium on income distribution and social effects of the Covid-19 crisis.

Although during the crisis, certain groups (such as performing artists and technicians in the cultural and events sector, sex workers registered as self-employed or as employees, temporary agency workers with a labour contract with the user and who returned to work after the interruption) were granted access to the emergency measures; others (such as agency workers not under contract at the time of the crisis, platform workers, people in flexi-jobs, most sex workers not qualifying as regular employees or self-employed, people in occasional work with interrupted contracts, self-employed not earning enough to qualify for the bridging right and young people in dual learning or in different kinds of traineeships, or working on a student contract) still fell outside the emergency social protection measures.

A special Covid-19 report from the Federal Public Planning Service for Social Integration<sup>14</sup> reveals a significant increase in the number of people applying for financial support from the Public Centres for Social Welfare (PCSW), other than the guaranteed minimum income. The beneficiaries are people who were in work prior to the crisis, or who are receiving benefits that, due to higher expenses during the crisis, are insufficient to make ends meet. Although performers and the self-employed were particularly hard hit during the Covid-19 crisis, they are not amongst the new beneficiaries of financial support. The Public Service for Social Integration suggests that they probably relied on their savings, or exhausted other social rights, such as those provided during the crisis, rather than asking the PCSW for help.

Covid-19 caused a considerable increase of work-load for many couriers, but those who were unable to work as they had to remain in quarantine discovered that they were not covered by sickness insurance through their employer. Instead, gig-work platform Uber sees the couriers as self-employed and pays only a small allowance from a special coronavirus aid initiative. For couriers it is impossible to verify how the allowance is calculated, because the rules are not transparent and discretionary. Trade unions levelled similar charges against gig-work platform Deliveroo, saying that the company puts insurance in place just to be able to respond to public opinion and journalists, and that in reality the insurance does not provide substantial coverage.<sup>15</sup>

### **3. The role of national trade unions**

Belgian social partners traditionally play an important role in the design and the implementation of social policy. There are three main trade unions in Belgium: ACV/CSC, a Christian trade union, ABVV/FGTB, a socialist trade union, and ACLVB/CGSLB, a liberal trade union. The National Labour Council (CNT-NAR) is one of the major social dialogue bodies, and consists of representatives of the representative trade unions and employers' associations. The main competence of the Labour

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<sup>14</sup> Monitoring van de OCMW's - vierde rapport sociale impact Covid-19 | POD Maatschappelijke Integratie (mi-is.be).

<sup>15</sup> Information retrieved from the websites: Over ons — United Freelancers; <https://www.btb-abvv.be>

Council is to advise the federal minister of labour and his/her services in the administration, including on the adaptation of social protection benefits to the evolution of welfare. It also has the competence to conclude collective agreements. Every two years, the so-called Group of Ten negotiates the interprofessional agreement on key labour conditions, on the basis of which sectoral collective agreements or agreements at company level are negotiated. Belgium has a quasi-Ghent system, where the trade unions have an important responsibility in paying out (both regular and temporary) unemployment benefits. At the level of the regions and communities in Belgium, there are bipartite as well as tripartite consultative bodies to negotiate agreements and to advise social policy makers in the federated entities.

At federal level during the Covid-19 crisis, the social partners have been involved in the elaboration of emergency measures via the Economic Risk Management Group (ERMG), created in March 2020. This group consists of experts, chairmen and -women of several institutions involved in Belgian (macro) economic policy. The group provides advice to the Council of Ministers on the work-related side of the national crisis measures.

During the crisis, the CNT agreed upon new national collective agreements (CA 147 & 148) regulating temporary unemployment for white collar workers in companies without an existing arrangement, and allowing companies and employees that normally cannot make use of the system to opt in. The CNT also agreed to CA 149 on the organisation of telework in companies that had not adopted arrangements to implement the rules of CA 85 on telework or occasional work. It formulated opinions on legislative proposals to extend the scope of the temporary unemployment system and on the organisation of professional training for employees in temporary unemployment. The social partners have been informed by the government on most other work-related crisis measures, such as suspension of regression of unemployment benefits, Covid-19 parental leave and bridging rights for the self-employed (Eurofound 2020).<sup>16</sup>

At sectoral level, the social partners have helped to mitigate the consequences of the crisis by providing financial support. In some sectors, additional premiums have been made available to personnel hard hit by temporary unemployment. In addition, the social partners have provided guidance to companies on Covid-19 health and safety measures within their respective sectors, especially in the periods when locked down sectors have been allowed to open again. The trade unions have played an important role in safety and monitoring, as they are represented on health and safety committees, which are mandatory in all companies with more than 50 employees, and also have their representatives who assume this role in smaller companies. The employers' associations function also as a support and information point for their members, providing guidance on financial support measures (Van Herreweghe 2021).

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16. <https://www.eurofound.europa.eu/data/covid-19-eu-policywatch/database>

For many years, trade unions have been fighting against bogus self-employment.<sup>17</sup> At ABVV transport workers' union BTB, a special service has recently been created to defend the interests of platform workers working as couriers in delivery services. ACV has started a new trade union department under the name 'United Freelancers' for self-employed people without staff (freelancers, one-person businesses or those who are self-employed as a secondary occupation). On the basis of the law on labour relations, both trade unions strongly insist that platform workers should be considered as employees, with full labour and social protection rights, and that the platforms should respect the rules on taxation and social contributions. Several court cases have been launched by the labour auditor, joined by the trade unions, against the claim of platforms that their workers should be considered as self-employed, or as part of the so-called 'share economy'.

In April 2020, the Constitutional Court in Belgium, petitioned by employers' organisations and trade unions, quashed the arrangement on additional tax-free income, introduced by the law of 18 July 2018 on economic recovery and social cohesion.<sup>18</sup> That law made it possible for every person with a status of self-employed, employee, civil servant or pensioner, to earn up to 6,000 euros extra per year by performing activities for associations, or delivering occasional services between citizens or for officially recognized electronic platforms. The activities under this new ad hoc statute are exempt from application of general labour law (minimum payment, working time, duration and termination of contracts) and do not lead to acquired rights to social protection. The payments are not subject to social security contributions or taxes. Employers' organisations and trade unions fear unlawful competition and undermining of the social protection system.

In their request to the Constitutional Court to quash the law, the trade unions refer to several European and International labour law and social security regulations that also apply to the newly created 'workers'.<sup>19</sup> The Court ruled that the new arrangement in many aspects is in conflict with the constitutional principles of equality and non-discrimination. Persons who perform the same activities, on the basis of the new arrangement on the one hand, or in their capacity of self-employed or employee on the other, are treated very differently with regard to labour law, the social security system and the tax system, without any serious justification. Since the quashing of the law can have adverse consequences for the workers concerned, the Court has maintained the consequences of the terms of the law until 31 December 2020, meaning that activities could still be delivered under the system until that date. One year after the entry into force of the law on

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**17.** A situation in which an employer wrongfully treats a worker as an independent contractor and hides their true status as a salaried employee (ILO 2016).

**18.** <https://www.const-court.be/public/f/2020/2020-053f-info.pdf>

**19.** The applicants refer to the following EU and international rules: the International Covenant on Economic, Social and Cultural Rights, the revised European Social Charter, the Charter of Fundamental Rights of the EU, Directive 89/391/EEC on health and safety of workers, Directive 91/533/EEC on the employer's obligation to inform employees about conditions regarding labour contracts, Directive 97/81/EEC on part-time work, Directive 1999/70/EEC on temporary work, Directive 2002/14/EEC on information and consultation of workers, Directive 2003/88/EEC on working time, Directive 2008/94/EEC on insolvency, Regulation 883/2004 on coordination of social security systems, Regulation 44/2001 on decisions in civil and trade affairs, ILO Conventions no. 87, 98 and 189.

economic recovery, the FPS Social Security coordinated an evaluation of the law by a number of administrations, public social security institutions and associations.<sup>20</sup>

The federal coalition agreement<sup>21</sup> as well as the policy declaration of the Minister for Social Affairs,<sup>22</sup> state that the new federal government will come up with proposals to ensure greater convergence of the social protection status of employees, civil servants and self-employed by the end of 2021. They also promise better labour law and social protection of platform workers and to combat bogus self-employment. Therefore, in dialogue with the social partners and the sectors concerned, the federal government will evaluate and eventually adapt the law on labour relations. A solution will also be sought to remedy the quashed law of 2018 on paid activities for associations. Further policy intentions concerning non-standard work are the possible creation of a statute for artists, evaluation of the social situation of sex workers, of childminders and informal care givers; these should bring solutions for complex problems related to their social protection. All initiatives will be discussed through the social dialogue process.

Meanwhile, a temporary law has been approved to ensure continuity of the arrangements in the quashed law, for activities performed for associations and for the regime of platform work. By law of 24 December 2020, the federal government created a new statute for people performing activities in the sports sector, for remuneration that does not exceed €6,390 per year or €532.50 per month. Until 1 January 2021, these activities were exempt from social contributions and taxes; since then, a 10% tax and a 10% solidarity contribution are due by the associations. The activities do not generate social security entitlement. On 7 May 2021, this arrangement was extended to also cover some activities in the cultural and socio-cultural sector. For sport activities, the maximum monthly remuneration was increased to €1,065. This decision led to fierce reactions from the trade unions, who refer to the unanimous rejection of such statutes by the National Council of Labour and predict that the new arrangement will give rise to the same legal objections as its predecessor. ‘The social partners are aware of the special needs in the sector of sports, culture and socio-cultural activities’, says Chris Serroyen, head of the study department at ACV. ‘We have continuously stated that, together, we are ready to search for solutions. But certainly not by creating an inferior statute that undermines labour and social protection’.<sup>23</sup>

**20.** SPF Sécurité Sociale – Evaluation de la loi du 18 juillet 2018 relative à la relance économique et au renforcement de la cohésion sociale (phase 2) – accessed at <https://ln2.sync.com/dl/48129d500/twvprfgx-s4zanjhj-kziapczf-k86y773h/view/doc/11085336020008>

**21.** Federaal regeerakkoord 30 September 2020, p. 43.

**22.** Belgische Kamer van Volksvertegenwoordigers, Algemene beleidsnota Sociale Zaken, 20 November 2020, Doc 55 1580/003.

**23.** ACV persmededeling, De regering zadelt de werknemers op met nog meer onzekerheid, Brussels 14 May 2021.

Recently, as announced in the federal coalition agreement, the Minister of Employment requested the opinion of the National Labour Council on possible adaptations of the law on labour relations, concerning labour and social security protection for platform workers.<sup>24</sup>

#### **4. Future perspectives**

In November 2020, a report (Van Limberghen *et al.* 2020) was published, containing an extensive analysis of the Belgian social security system, tested against the criteria of the Council Recommendation. The report analyses the gaps in sectors of the Belgian social security system in terms of formal coverage, effective coverage, adequacy and transparency and presents ideas for improvement. The recommendations address the system for employees as well as that for self-employed. The legal experts recommend that all workers who deliver paid work under the authority of a person, even if according to Belgian law this is not considered work as an employee, should be subject to mandatory affiliation to the social protection system for all social risks. For workers with only ‘incidental’ or occasional activities,<sup>25</sup> affiliation should be compulsory for the sectors of sickness insurance, work accidents and professional diseases, possibly with an option to opt into the other sectors of social protection. This would solve the problems of people who now only have partial social rights under the social protection system. However, the study does not take into account the effects of the pandemic on people’s social situation, nor on the social protection system, nor does it evaluate the social protection measures taken to counter the crisis.

On 8 March 2021, the Minister for Social Affairs requested the opinion of the National Council for Labour on the implementation of the Council Recommendation. In its opinion, the Council<sup>26</sup> regrets not having been informed earlier about the analysis of the legal experts, and thus not having had the chance to thoroughly discuss the proposals put forward by them. It also regrets that it had to give its opinion without knowing the content of the draft national plan, and formulates the hope to be consulted again in the social dialogue process, once the national plan is published. It sees the proposals put forward by the experts as a solid basis for further discussion, provided they are accompanied by an assessment of the developments since the Covid-19 crisis. It requests a budgetary exercise on the concrete proposals in the study that aim to improve the social protection system, to assess their financial viability. The Council finds that workers in non-standard contracts have been the hardest hit during the health crisis and urges the government to prioritise initiatives to improve their social protection in the national plan. It asks for special attention to be paid to the situation of single parents and to measures to improve social protection of newcomers to the labour

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24. NAR, Adviesaanvraag in verband met de wetgeving betreffende de aard van de arbeidsrelaties en het werk via platformen, Brussels 6 April 2021.

25. Activities for very short periods or a restricted number of hours, or that are paid at limited remuneration, non-professional activities or paid voluntary work.

26. Nationale Arbeidsraad, advies n° 2216, Brussels 5 May 2021.

market. On platform work, the Council refers to its earlier unanimous opinion,<sup>27</sup> rejecting the creation of a new labour law regime, in-between the statute of regular work and voluntary work, with fewer rights in labour law and in social protection. It is of the opinion that it is preferable to find specific solutions adapted to certain sectors of social protection and to certain activities within the scope of the law on social protection of employees, rather than to create an in-between statute that would disrupt the socio-economic balance and that would be problematic from a legal viewpoint (here it refers to the case made by the Constitutional Court).

In May 2019, the Management Committee for the Self-employed had formulated an initial opinion<sup>28</sup> on the Council Recommendation, insisting that social protection must continue to be organised according to the needs of both employees and the self-employed, and that improvements should be in line with these needs. It opposes the idea of full portability of rights and contributions, suggested by the Recommendation. In line with these general principles, the Committee states that it is not in favour of introducing compulsory affiliation of the self-employed to the accident-at-work and professional diseases or unemployment schemes, as it considers these risks to be sufficiently covered by the health insurance and bridging rights. However, it is in favour of improvements regarding the adequacy of pensions and sickness benefits. In reply to the request for an opinion<sup>29</sup> on the implementation of the Council Recommendation by the Minister,<sup>30</sup> the General Management Committee for the Self-employed focuses on the following issues, quoted as priorities for policy measures in the federal coalition agreement and relevant to the Council Recommendation: pensions, maternity and paternity leave, increase of minimum benefits and replacement rates, automatic granting of social rights<sup>31</sup> and reintegration into the labour market of beneficiaries of social protection. On platform work, in the Committee's opinion, it is not easy to judge if a platform worker should fall under the rules that apply to the self-employed or those for employees.

The draft national plan, presented on 12 May in the Council of Ministers, focusses on the issues that were already identified in the federal coalition agreement: improvement of the social statute of performing artists, improved social protection of sex workers, childminders and informal care givers, and reclassification of the labour relations of people working as professional platform workers, together with an evaluation of the special regime of bridging rights for the self-employed during Covid-19. These are all seen as measures to ensure better formal coverage of social protection. To improve the effectiveness of coverage, longer paternal leave and measures to reform the pension systems are proposed. To improve adequacy, minima in different areas of social protection and the ceiling for the calculation of benefits will be gradually increased. In dialogue with the social

**27.** Nationale Arbeidsraad, advies 2181, Brussels 27 October 2020; advies 2189, Brussels 15 December 2020.

**28.** ABCCG advies 2019/08, Brussels 23/5/2019.

**29.** ABCCG, advies 2021/08, Brussels 19 april 2021.

**30.** Minister David Clarinval, responsible for self-employment, SMEs, agriculture, institutional reform and democratic renewal.

**31.** Social rights granted on the basis of information that is known by the administrations, such as social status or income.

partners, sustainable financing of the social protection system will be discussed and the exemptions to contributions will be evaluated. The impact of the legal status of ‘cohabitant’ that determines the duration and amounts of several social benefits will be assessed. To improve transparency, the plan proposed further administrative simplification, development of online accounts and calculation instruments, and automatic granting of rights to benefits. The plan commits to a strong dialogue with social partners on all measures taken to implement the plan, on any measures decided during this legislature and on longer term discussions about the future of social protection. On the latter, new forms of participatory involvement of civil society will be explored in addition to the social dialogue, to increase the impact of reform proposals.

## Conclusions

Social protection in Belgium generally covers the more traditional forms of non-standard work, such as part-time work and fixed term work, or temporary agency work, under conditions that are mostly comparable and proportionate to those for standard workers. Although the self-employed have their own system of social protection that still shows considerable differences with that of employees, consecutive governments have taken measures to ensure greater convergence between the systems.

During the Covid-19 crisis, additional measures have been taken to better protect workers against the consequences of the crisis, including for a number of workers on non-standard contracts. However, many workers remained in limbo or without protection. Crisis measures such as temporary unemployment benefits for employees and bridging rights for the self-employed cushioned the effects of the crisis. But workers in part-time jobs, or with low wages, faced severe income loss. Most of the measures did not reach people in the new forms of non-standard work, such as platform workers, people in flexi-jobs or in the share economy.

Trade unions have taken strong positions and social action to defend the labour and social rights of these new forms of non-standard work. Especially since the law on the share economy was quashed by the Constitutional Court, the debate has become more intense.

The national plan to implement the Council Recommendation intends to fill some of the gaps in social protection of non-standard workers, mainly focussing on policy measures contained in the new government coalition agreement, including improving social protection for performing artists, sex workers, childminders, informal caregivers and also platform workers, and extending social rights for the self-employed. Specific proposals will still have to be discussed in the social dialogue process.

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# Country chapter France

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## Introduction

Starting in mid-March 2020 and lasting 55 days, during which the health system was pushed to its limits, the first lockdown brought France to a halt. This first lockdown, which ran from 17 March to 11 May 2020, was followed by a second from 30 October to 15 December. A third lockdown, less strict in terms of restrictions, was implemented from 3 April to 19 May 2021. In his address of 12 July 2021, the French President announced a set of measures to intensify the vaccination campaign and prevent a fourth wave of the pandemic (Annex 1). The research covers a time period running from March 2020 to 1 June 2021.

From the start of the first lockdown, projects to reform the unemployment system and pensions, to pursue the ecological transition, and to reduce deficits were all postponed to deal with the pandemic, which by the end of that period had caused 30,000 deaths. For people living in precarious situations, the shock was immense: breaches of trial work periods multiplied by 2.5. The number of short-term contracts terminated increased by over 27%. In June 2020, the epidemic seemed to be under control and lockdown was lifted. One year later, as the country emerges from a third, more open, 'looser' lockdown than the first, the figure of 109,000 deaths from Covid-19 has been reached.

Despite the health crisis and three successive lockdowns, at the end of the first quarter of 2021 unemployment figures had not risen sharply, but had instead stagnated at a high level of about 6.4 million people. The number of jobseekers immediately available for work, which in France corresponds to category A, amounted to 3.6 million people, which is 8.1% of the active population. No hunger riots or roundabout sit-ins have taken place to paralyse the convalescent economic recovery. The health system has proved highly resilient, companies have developed new ways of working, and in particular, public authorities mobilised 158 billion euros in 2020, which is almost 7% of the country's GDP for that year, and 171 billion in 2021, and estimate that it will take another 56 billion in 2021.

While almost 4.5 million people were in non-salaried employment in the early 1970s, by the early 2000s in mainland France this figure had dropped to about 2.25 million people. It then began to rise, initially only slightly starting from 2004, and then more sharply with the creation of the *autoentrepreneur* status in 2009, to reach 3 million people at the end of 2019 (HCFiPS 2020). The share of non-salaried unemployment in total employment was 9% at the end of 2019 (INSEE 2021).

During the pandemic, NSW/SE<sup>1</sup> could take advantage of different types of support, some but not all of which were the same as for workers in standard employment:

- benefits and services, based on contributions or not, under the standard social protection scheme: health insurance, family benefits, which were often adapted to pandemic-related situations;
- specific pandemic measures: furlough, mainly for employees, and the *Fonds de solidarité* [solidarity fund] created for self-employed people;
- social security safety nets: *revenu de solidarité active* (RSA) [active solidarity income] for all people, and *allocation de solidarité spécifique* (ASS) [specific solidarity allowance] for jobseekers.

As the pandemic progressed, measures were created, modified and extended. The situation was very different during the first lockdown (15 March to 11 May 2020), when all activity was considerably reduced, than during the following lockdowns, which featured a return to economic activity apart from some sectors (especially the hospitality industry). While most of the measures concerned standard workers, from the start of the health crisis measures were set up for specific groups of non-standard workers, for example for people employed in the entertainment industry, and extended to other types of workers in sectors like hospitality and transport. In this aspect, the situation in France was similar to that of other European countries (Eurofound 2021). However, this development corroborates earlier studies. Without explicitly referring to the Council Recommendation on access to social protection for workers and the self-employed 2019, the issue of self-employed workers has been the object of numerous studies and reports, all of which, in particular given the influence of platforms, recommend regulating the development of these forms of work.

The pandemic followed a period of high tension that commenced in 2017 and saw clashes between national unions and the government on the pensions reform, the status of railway workers and employment insurance. The health crisis has mainly involved more frequent, calmer exchanges between the government and trade unions. However, although the unions are more regularly informed and consulted, their interventions remain marginal, and a long way from joint piloting of public action.

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1. For the purposes of this chapter, we use the following definitions of different types of employment (ILO 2016): Standard employees i.e. full-time open-ended contracts; non-standard workers i.e. contractual employment outside of full-time open-ended contracts (e.g. part-time, temporary contracts, zero-hour, seasonal workers etc.); self-employment, i.e. people working for their own account. However, it should be noted that the distinction between non-standard workers and the self-employed is not particularly clear in the French system, which makes more of a legal distinction between self-employed workers, i.e. those with no employment contract whose self-employment is gauged solely by their absence of subordination, and workers subject to an employment contract, whatever the organisation, duration, or remuneration provided for in that contract. While statistical data indicate that 3.0 million people have self-employed status, we do not have any overall data on non-standard forms of work.

This chapter provides a concise presentation of the main measures implemented during the pandemic, mainly aimed at self-employed people and precarious non-standard workers (Section 1); it questions the potential impacts of these measures in the short and longer terms (Section 2); recalls the role of trade unions (Section 3); and looks at the perspectives opened up by reforms and adaptations implemented during the pandemic (Section 4). The lack of available data concerning the impact of measures on different professional statuses illustrates either an ambition to generalise benefits that are as universal possible, or France's 'lower' interest in these professional statuses, which are a much smaller population than 'standard' employees.

The job retention scheme, which was the key measure implemented by public authorities to preserve employment, along with state-guaranteed loans, reductions and deferrals of social security contributions, free Covid-19 tests and vaccinations, contributed to maintaining economic activity. These measures do not come under the scope of this chapter. This collective intervention has clearly had an impact on maintaining, even improving, the situation of NSW/SE.

## 1. Social protection against the pandemic<sup>2</sup>

### 1.1 Unemployment benefits

Support for employment has taken the form of measures concerning jobseekers, furloughed workers, entertainment industry workers, and households on very low incomes. For the self-employed, this support also concerns: adjustment of contributions, the solidarity fund, and state-guaranteed loans. Nevertheless, NSW/SE can sometimes access unemployment benefit measures due to their previous activity as 'standard' employees. Jobseekers can cumulate part of these benefits with their new salaries or independent income. This measure guarantees a monthly total income level (salary and benefits) at least equal to the benefit alone; 31% of unemployment beneficiaries are in work (UNEDIC 2020).

#### 1.1.1 Support for people

At the end of 2017, in non-agricultural sectors, 9% of standard self-employed people also had a salaried job, compared to 29% of micro-entrepreneurs (INSEE 2020). This makes them eligible for standard benefits open to jobseekers following an examination of their situation by *Pôle Emploi* [job centre]. Since 2018, self-employed people come under the scope of the unemployment benefit scheme. However, the over-restrictive eligibility conditions have made this measure almost inoperable during the health crisis (Legros and Huteau 2021).

Established by the act entitled 'For the freedom to choose one's professional future' dated 5 September 2018, and by two decrees dated 26 July and 20 September 2019,

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2. This section, less centred on NSW/SE, is developed further in the following report: Huteau *et al.* 2021.

the *allocation des travailleurs indépendants* [self-employment allowance – ATI] was devised to adapt the French system to the diversification of work and employment, to secure the professional transition of self-employed people by creating a safety net, to encourage entrepreneurship, and to reduce disparities between employed and self-employed workers. To be eligible for this benefit, which came into force on 1 November 2019, claimants must meet all of the following five conditions:

- they must have worked in a self-employed capacity continuously for at least two years in a single company;
- the activity must have ceased following a court decision (liquidation or receivership);
- they must be able to prove that they have actively searched for employment and have signed up at *Pôle Emploi* (job centre);
- their annual income must have been at least €10,000 during the two years preceding the cessation of activity;
- their personal resources (income and benefits) must amount to less than the *revenu de solidarité active* [active solidarity income benefit – RSA], or €564.78 per month for a single person.

The lump-sum ATI allowance of €26.30 per day is paid out by *Pôle Emploi* for a maximum, non-renewable duration of 182 calendar days. It is allocated with no requirement to have paid in contributions on income from the self-employed activity. The allowance is financed by all the resources of the unemployment insurance scheme (Unedic): unemployment insurance paid in by all employers on remuneration of employees, and a fraction of the *contribution sociale généralisée* [general social contribution – CSG].

While estimations prior to the adoption of this measure pointed to a target of 25,000 to 30,000 potential beneficiaries and a take-up rate of 60%, figures discreetly released a year after the measure's implementation report a 10% rate with 800 to 1,000 applications accepted and as many rejections.

On 8 December 2020, the Minister Delegate for Small and Medium-sized Enterprises indicated that he planned to review the criteria for accessing the scheme in 2021. In addition to easing the eligibility criteria for unemployment insurance, the government has initiated discussions with representative employer organisations in order to develop, in the course of 2021, a comprehensive plan covering the different sectors of self-employment activity. The plan covers legal status, calculation of social contributions, unemployment, training, and transfer and procedures applicable in the event of failure of the business.

Although this benefit is paid out by Unedic and requires registration with *Pôle Emploi*, its lump-sum nature, the lack of requirement for prior contributions, and its link with previous income make it closer to a minimum income allowance than a social insurance allowance related to employment. The alignment between the different schemes largely remains to be established.<sup>3</sup>

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3. Legros and Huteau (2021).

– Extraordinary and temporary benefit measures for jobseekers

Starting from March 2020, the government alleviated most of the benefit procedures affecting jobseekers. These fine adjustments are aimed at making it easier to access unemployment benefits, to extend their duration, reduce constraints, and even increase the amounts of the benefit. These alleviations are as follows: maintenance of the training allowance, extension of payment of back-to-work allowance, (ARE), extension of time limit and employment reference period, and greater flexibility for the minimum employment period. Most of the measures were implemented during the first lockdown in mid-March 2020. Several have been readjusted, in particular between the two lockdowns. These measures apply to all private-sector employees seeking employment and signed up at *Pôle Emploi* who receive unemployment benefits (for more details on these different measures, see Annex 2).

– Exceptional measures for people employed in the entertainment industry

*Intermittents du spectacle* are employees occupied as performing artists, technicians or in an administrative position in the performing arts, audio-visual or film industries. They alternate periods of work and unemployment on short-term contracts based on a project rationale. They come under a specific regime in the unemployment insurance system, which entitles them to benefits if they can prove 507 hours of work over the previous 12 months. This status concerns 272,000 employees. 117,000 *intermittents* (43%) declare sufficient hours of work to benefit from this status.

To be eligible for the status of ‘*intermittent*’ and the related benefits, artists must be able to justify 507 hours of declared, remunerated activity (subject to precise conditions) over twelve months. Claimants’ cases are reviewed annually: if they have not cumulated another 507 hours over the previous twelve months, they lose their status; and if they have, they are eligible for another year of benefits. The status of *intermittent du spectacle* opens up the right to a daily allowance proportional to income ranging from €31.36 to €133.27.

Given the Covid-19 health crisis, which has put a stop to all activities relating to the performing arts, the audio-visual and film industries, since March 2020 employees in this sector have benefited from an extension of their entitlement to claim unemployment benefits in what has been called an *année blanche* (blank or free-covered year). At the end of this measure scheduled to run until 31 August 2021, an examination will be made of eligibility to claim unemployment benefit including a number of potential modifications that have not yet been announced.

This measure constitutes a strong response to professionals in a sector subject to total shutdown who are entitled to a specific unemployment package, which has however been the subject of numerous conflicts in the past.

### 1.1.2 Support for jobs: the solidarity fund

Since the start of the Coronavirus Covid-19 health crisis, the state and the regions have established a solidarity fund to prevent the closure of small businesses, micro-entrepreneurs, self-employed people and the liberal professions, all of which have been strongly affected by the economic downturn linked to Covid-19. The fund pays out a compensation for the loss of revenue endured by self-employed people affected by the crisis. Created on 25 March 2020, initially for three renewable months renewable three times, the measure is still in force at least until June 2021. The scope of this fund changes every month, as do the eligibility criteria, the amount of benefits and the population targeted by the measure. Decrees stipulate monthly the means for obtaining this financial support created as a response to the Covid-19 crisis. The support is based on two pillars: a first pillar of a maximum of €1,500 used in most cases; and a second pillar from €2,000 to €5,000 for beneficiaries eligible for the first aid of up to €1,500 and who face major financial difficulties. The sectors targeted are retailers, artisans, the liberal professions and other economic agents, whatever their status (company, individual entrepreneur, association, etc.) and tax and social regime (including micro-entrepreneurs) with fewer than initially 50, then 10 employees.

## 1.2 Sick pay and sickness benefits

Data on the impact of measures implemented by the general health insurance scheme are not yet available for specific categories. Their impact on healthcare expenditure is likely to be marginal given the costs of treating the virus and the reorganisation of the healthcare system. The measures have mainly consisted in reducing constraints and extending eligibility.<sup>4</sup>

- *Suppression de conditions relatives à l'attribution des indemnités journalières maladie* [cancellation of conditions for allocating daily sickness allowance]

It has been made possible to claim a daily allowance without having to fulfil eligibility conditions concerning minimum employment or minimum contributions (starting from February 2020). The daily sickness allowance amounts to 50% of the claimant's basic daily wage. This is calculated based on the average gross wage up to a maximum of 1.8 times the monthly *salaire minimum interprofessionnel de croissance* (minimum wage – Smic), i.e. €2,770.96 net (based on the Smic rate of 1 January 2020). Even if the claimant's wages are higher than this amount, the maximum daily sickness allowance rate for 2020 is €45.55 gross, and €60.73 gross for claimants with three dependent children and people on long-term sick leave (compared to €60.02 in 2019). This measure concerns all work stoppages affecting people suffering from a health condition, vulnerable people at greater

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4. <https://www.ameli.fr/assure/covid-19/assurance-maladie-contact-droits-et-demarches-pendant-la-crise-sanitaire/les-actions-de-lassurance-maladie-pour-mieux-vous-protger>

risk of developing a serious form of Covid-19, and parents obliged to look after their children following the closure of their school or crèche.

During the first lockdown (17 March to 11 May 2020), there were 400,000 work stoppages for vulnerable people, 60,000 for Covid-19 cases, and 2.3 million for parents looking after children. This number is higher than the number of beneficiaries because stoppage requests had to be renewed every three weeks during lockdown.<sup>5</sup>

- *Attribution des indemnités journalières maladie à compter du 1<sup>er</sup> jour d'arrêt de travail* [allocation of daily sickness allowance starting from the first day of stopping work]

The three-day waiting period usually included in the calculation of daily allowances has been cancelled, so that allowances can be paid out from the first day of sick leave (starting from 23 March 2020). This measure removes the unpaid three-day waiting period normally applicable, resulting in an additional three days. This measure is essentially an adaptation designed to make existing rules more flexible.

- *Prolongation de la période maximale d'indemnisation de l'arrêt de travail* [extension of the maximum period for sick leave compensation]

The maximum number or maximum period of payments of daily allowances has been cancelled, in order not to penalise beneficiaries at the end of their daily allowance (from 23 March 2020). Covid-19 can trigger chronic disorders. However, this pathology does not feature in the established list of long-term diseases. In general, the total maximum duration of allowances for people coming under the health insurance scheme is 360 days every three years. In the case of Covid-19, this duration condition no longer applies. This measure applies to both employees and the self-employed diagnosed with Covid-19.

- *Allocations complémentaires dues par les employeurs en cas d'arrêt de travail* [additional allowances payable by employers in the case of work stoppage]

Following the closure of all schools and establishments receiving young people on 16 March 2020, it was decided that people covered by healthcare insurance and obliged to stay at home to look after children aged under 16 could benefit from compensation for stopping work for the entire period of the school closure. On 18 March 2020, the state decided that people at risk of developing a serious form of Covid-19 could also stop work and receive sick pay as a preventative measure. The measure was then extended to people sharing their homes with someone at risk.

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5. La Tribune, based on a communication from the national health insurance to Agence-France-Presse, 22 April 2020.

### 1.3 Leave for taking care of children aged under 16<sup>6</sup>

Through a series of decrees in January 2020,<sup>7</sup> the government attempted to provide solutions to parents with no other choice but to stop work to look after their children following the closure of their crèche or school, or when children were identified by the national insurance system as being contact cases of infected people. Thanks to these measures, parents have benefitted from a replacement income from the first day of stopping work, and at the latest until the end of the confinement period.

The compensation measures cover all relevant work stoppages, with different applications: first between 17 March 2020 to 30 April 2020 with the daily sickness allowance (see 2.3.5) and then, since 1 May 2020, with chômage partiel (a job-retention scheme). These measures were not applied during school holidays. Since 1 September 2020, they apply to parents, with some restrictions. The compensation can be claimed by one parent per household, in case of both parents' incapacity to telework, following presentation of a justification attesting to either the closure of the class or a contact case situation for the child.

For all types of work status, the replacement rate is 100% of wages with no obligatory waiting period. The duration of the payment is the following 14 days. For the self-employed:

- both parents must be incapable of teleworking;
- both parents must be incapable of working remotely. The claimant must therefore present two documents: (i) a justification attesting that the class is closed (provided by the school or town hall) or that the child is a contact case (document provided by the national health insurance); and (ii) a sworn statement that he or she is the only one of the two parents applying to stop work for the days concerned. This arrangement, which only one parent can claim, applies from the first day of stopping work and up to the end of the confinement period at the latest;
- the child must be younger than 16 on the day of the start of the work stoppage. For disabled children, there is no age limit;
- a justification attesting to the closure of the class or a 'contact case' situation must be retained and made available to the national health insurance in case of checkscontrol;

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6. Arrêt de travail pour garder un enfant de moins de 16 ans.

7. Decree No. 2021-13 of 8 January 2021 providing for the application of derogations relating to the benefit of daily allowances and complementary allowances established in article L. 1226-1 of the Labour Code and to the conditions for health insurance coverage of certain healthcare costs in order to combat the Covid-19 epidemic. Decree No. 2020-1386 of 14 November 2020 amending decree No. 2020-73 of 31 January 2020 relating to the adoption of suitable conditions to claim cash benefits for people exposed to coronavirus. Decree No. 2020-73 of 31 January 2020 relating to the adoption of suitable conditions to claim cash benefits for people exposed to coronavirus.

- this measure applies from the first day of stopping work and at the latest until the end of the confinement period. The authorisation to stop work can be declared for a duration corresponding to the closure of the school provided it does not exceed 21 days.

The work stoppage can be split over time or shared between the parents for the duration of the school closure.<sup>8</sup>

- For the self-employed, liberal professions, and contract workers under public law, the formula is a special authorisation to stop work. The following people can be covered by this authorisation to stop work with no obligatory waiting period: self-employed people; self-employed farm workers; author artists; people on vocational training; the liberal professions; healthcare professionals; employee managers; contract workers under public law; part-time civil servants working fewer than 28 hours; registered childminders.<sup>9</sup>

## 2. Potential effects of these measures on non-standard workers and the self employed

### 2.1 Greater convergence

The convergence between measures affecting 'standard' employees and 'non-standard' and self-employed workers is greater in the healthcare system. This evolution, although accelerated by the pandemic, follows a trend towards standardisation that has been taking place for several years. The shift was made concrete by the adoption of the principle of universal social protection initiated by Act No. 2015-1702 on financing the social security system for 2016. The health insurance system for self-employed people has been part of the general health insurance fund since 1 January 2018. Since 1 November 2019, the *couverture*

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8. The authorisation to stop work is established by the national health insurance system following an online declaration via the tele-service set up by the *Caisse nationale de l'Assurance maladie* (national health insurance fund, CNAM) or the *Mutualité sociale agricole* (agricultural mutual insurance fund, MSA) made by the beneficiary except for: (i) people on vocational training courses, who are declared by their training provider; and (ii) agents under public law, who are declared by their employer. The above must provide the following to their employer: (i) a justification from the school certifying that the child cannot come to school, or a document from the national health insurance certifying that the child is considered as a 'contact case'; and (ii) a sworn statement that he or she is the only one of the two parents applying for an authorisation to stop work for the days concerned.
  9. However, researchers from the OFCE (*Observatoire français des conjonctures économiques* – French economic observatory) published a note on 'l'emploi des femmes et des hommes pendant la période de confinement du 17 mars au 10 mai 2020' [employment of men and women during the lockdown from 17 March to 10 May 2020]. The authors looked at each gender by employment sector to evaluate the number of people whose employment was destroyed during the period, those who were furloughed, and those who were authorised to take paid leave to look after children. When both parents were eligible, the authors conclude that 90% of parents who took advantage of the latter measure were women (Ducoudré and Périvier 2020).

*maladie universelle complémentaire* (CMU-C) [complementary universal health coverage] and *aide au paiement d'une complémentaire santé* (ACS) [aid to pay for complementary health coverage] have been replaced by *complémentaire santé solidaire* [solidarity complementary health coverage].

With the aim of guiding undeclared workers towards wage labour, the *Chèque Emploi Service* (CESU) [service employment pay cheque] was created in 1994 by the URSSAF network. It simplifies employee-employer relations for activities carried out in the employer's home (housework, academic support, small gardening jobs, assistance for the elderly and disabled). In 2019, the *Observatoire de la Fédération des particuliers employeurs de France* [observatory of the federation of individual employers in France] indicated that 3.3 million individuals employed 1.4 million employees for a total of 1.5 billion remunerated hours, constituting a net wage bill of 8.7 billion euros.<sup>10</sup> During the first lockdown, these employees were eligible for the job retention scheme, which allowed them to continue to receive an income during the pandemic.

These procedures do not however eradicate the large differences between full-time employees and other groups when it comes to compensation for loss of income due to work stoppage for illness, maternity or occupational accidents.

## 2.2 Measures that target a wide-reaching population

Throughout the health crisis, while all of the measures concerned a significant number of people, it is difficult to distinguish between the different types of work status and to evaluate the extent of non-take-up, in particular for people in precarious situations.

*Aides exceptionnelles de solidarité* [exceptional solidarity support] has been granted to 4.1 million of the poorest families, including five million children.

Extraordinary bonuses for some jobseekers, providing income for precarious employees who work part time or are in casual employment, and for unemployed people receiving very low unemployment benefits should benefit about 450,000 precarious workers including 80,000 young people.

The solidarity fund has also benefited a significant number of microentrepreneurs. In early May 2021, the total amount allocated to this support amounted to €25,009.23 million. In May 2021, 8,695,913 allowances were paid out, benefiting 2,010,020 companies, of which 33.5% were individual entrepreneurs, 37.3% were limited companies, 23.3% joint-stock companies, and 5.9% fell into other legal categories.

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10. [https://www.fepem.fr/wp-content/uploads/Rapport-sectoriel-des-Branches-2021\\_HD.pdf](https://www.fepem.fr/wp-content/uploads/Rapport-sectoriel-des-Branches-2021_HD.pdf)

## 2.3 Double limitation

Although these measures have widely benefited non-standard workers and the self-employed, they do have two limitations. The first concerns some of the criteria for eligibility. For example, when solidarity fund support is calculated on the basis of the whole of 2019, it excludes all microentrepreneurs who started their activity during that year. And while 272,000 entertainment workers exist in France, only 117,000 (43%) can justify a sufficient number of hours to fully benefit from this status. The second limitation concerns the low level of support provided to NSW/SE. While the job retention scheme means that standard workers receive 70% to 100% of their former salary, the support provided to NSW/SE is closer to a welfare benefit. The most extreme illustration is the creation of an unemployment benefit procedure for self-employed people. It was initially set up to handle 25,000 to 30,000 requests in the first year, but only received 800 applications because the eligibility conditions were so restrictive. In addition, benefits are often calculated to reach the level of the RSA (about 500 euros), which is well below the poverty line.

As a result of these limitations, the measures have turned out to be less effective for poorer communities and precarious workers. This insufficiency is apparent in a great number of these people's accounts of the living conditions they endured during the health crisis.<sup>11</sup>

## 2.4 Poverty and inequality

Confronted with lower incomes, or unable to access support systems, people in difficulty have resorted to the safety nets represented by minimum social benefits. The number of beneficiaries of the *revenu de solidarité active* (RSA) [active solidarity income] rose sharply from the very start of the health crisis, reaching 2.03 million people in December 2020, which is a 7.6% increase compared to December 2019. Following a steady decrease since 2015, interrupted by the first lockdown, the numbers of beneficiaries of the *allocation de solidarité spécifique* (ASS) [specific solidarity allowance] increased dramatically between May and September 2020 (+11.2%).

During 2020, the *Fédération Française des Banques Alimentaires* [French federation of food banks], which supplies 5,400 centres, increased its distributions by 25%, and on 8 September 2020 the Minister for Health and Solidarity reported that an estimated 8 million people were in need of food aid, compared to 5.5 million in 2019.

Concerning inequality, the first results of the survey by Epicov (*Épidémiologie et conditions de vie* [epidemiology and living conditions] involving 135,000 people

11. 'Entre insomnie, chute des revenus et volonté d'avancer, les indépendants racontent leur crise', [sleepless nights, a drop in income and the will to keep going: self-employed people talk about their experience of the crisis] *Le Monde*, 21 May 2020, and Lambert and Cayouette-Remblière 2021.

from March to May 2020 insists on the cumulative impact of social inequalities. These inequalities include differences in mortality rates, the prevalence of infection, and more acute social vulnerabilities (Bajos *et al.* 2020). The most recent analysis on inequality and poverty insists both on the short-term protective role played by state measures and on the risks faced by the poorest people in the post-crisis period (Lambert and Cayouette-Rembliere 2021; Duvoux and Lelièvre 2021): ‘It’s never been easy to be poor but now it’s worse. Beyond the need to compensate for the immediate impact of the crisis, it is absolutely essential to prevent the long-term and sometimes irreversible trajectories of poverty, which are often the hidden side of crises: France in 2021 still bears the traces of the 2008 crisis.’

– Exceptional solidarity aid for the poorest households

To tackle the consequences of the health crisis for poorer households, the state set up two exceptional solidarity allowances at separate times. The two exceptional solidarity allowances amount to €150 per household in a single payment. Beneficiaries who have children receive an additional €100 per dependent child. Beneficiaries eligible twice receive two payments. Beneficiaries of the different minimum income schemes and beneficiaries of one of the personalised housing allowances who do not receive *revenu de solidarité active* [active solidarity income, RSA] or *allocation de solidarité spécifique* [specific solidarity income, ASS] and have children are also covered.

– Extraordinary bonus for some jobseekers

An extraordinary bonus guarantees a minimum income for precarious employees who work part time or are in casual employment, and for unemployed people receiving very low unemployment benefits. This state aid is paid automatically (without the need for an application) by *Pôle Emploi* to jobseekers, whether or not they receive unemployment benefit. This decision was taken at the end of the month of December 2020 for the period from November 2020 to May 2021.

The amount of the bonus makes up the difference between an individual’s income (unemployment benefits, replacement revenue such as RSA, 60% of wages, etc.) and the monthly amount of €900 net. The target public is workers affected by a considerable drop in the number of missions proposed by temporary employment agencies and short-term contracts caused by the health crisis. They are known as *permittents* and include employees in the hospitality industry, such as hotels, restaurants and events, seasonal workers and temporary staff.

### 3. The role of national trade unions<sup>12</sup>

Since the presidential election of 2017 and up to the start of the health crisis in March 2020, relations between the government and unions were marked by tension and clashes. Key conflicts during this period include the 2017 reform of the Labour Code, one of the consequences of which was to reduce the place of unions in small companies, the railway worker strike in reaction to the threat to their special status<sup>13</sup> in 2018, and in particular the constitution of a trade union front to block the pensions reform from September 2019 to March 2020. With little desire to involve the unions in the management of national issues, the government refused the unions' proposal of organising a social conference at the start of the 'yellow jacket crisis' to attempt to resolve the social issues raised by this movement. Drawing lessons from that yellow jacket crisis, the government has regularly consulted union organisations throughout the pandemic. These consultations have taken the form of numerous informal meetings, and three 'social dialogue' conferences on 17 July and 26 October 2020, and 15 March 2021.

The public health crisis could have been an opportunity to organise a common front to wield influence on government policies to ensure employee security and prevent social risks. This has not been the case. Traditional divisions have once again prevailed with, on the one side, dissenting unions acting on the defensive, and on the other, unions keen to participate in transforming the world of work through negotiations. The first group includes the following unions:<sup>14</sup>

- the Confédération Générale du Travail (CGT), which has championed protection for workers through maximum lockdown in a context of frequent internal divisions;
- the Fédération Syndicale Unitaire (FSU), deeply rooted in the national education system;
- 'solidaires', promoting 'struggle'-based trade unionism, active in its various footholds.

The second group of unions that have attempted to be involved in the debates includes:

- the Confédération Française des Travailleurs (CFDT), which intervened to improve the furlough scheme and create measures aimed at young people;
- the Confédération française des Travailleurs chrétiens (CFTC), which worked with the CFDT to call for a return to work;
- the Union Nationale des Syndicats Autonome.

<sup>12</sup>. This section is the result of researching several internet sources, including the blogs of representative national trade unions and the websites of organisations representing NSW/SE, along with information from the Trade Union Advisory Committee (TUAC).

<sup>13</sup>. SNCF employees are not civil servants, but since 2020, most staff members (known as *cadres permanents* [permanent managers]) benefit from a specific status (*statut cheminot* [railroad worker status]) and a special retirement regime. All attempts to modify this status have resulted in large-scale union protests.

<sup>14</sup>. <https://www.clesdusocial.com/> 25 July 2020.

A third group of unions comes somewhere in the middle, calling for maximum health security while positively defending economic recovery. This group includes Force Ouvrière, (FO) and the Confédération Française de l'Encadrement-Confédération Générale des Cadres (CFE-CGC).

Without participating in jointly steering decisions, and in an extremely centralised government system, trade unions nevertheless consider that they have influenced several choices, including the deferral of the application of the unemployment benefit and pensions reforms, the setting-up of a solidarity fund for the self-employed, the extension of the job retention scheme to a maximum number of employees, and raising awareness of the need to provide protective equipment to workers (care home employees, home helps, cashiers, etc.).

However, despite demands from most trade unions, they have not succeeded in obtaining sanctions for companies that provide little or no protection for their employees. Nor have they obtained the concretisation of a draft law prohibiting the payment of dividends to shareholders, a policy that the government has put under the responsibility of companies. All unions condemned the ruling of 25 March 2020 authorising companies to exceed standard working hours. The unions also expressed regret at not being able to help define the list of sectors maintained for essential needs and the stoppage of non-essential activities.

Sectorial negotiations took place to stipulate work arrangements in the education system and various occupations during lockdown periods. On 26 November 2020, employer organisations and unions finalised a national inter-professional agreement 'for the successful implementation of teleworking'. The most important negotiations, the '*séjour de la santé*', related to pay and organisation of work for healthcare professionals. These agreements signed on 13 July 2020 by CFTD, UNSA and FO unions establish higher pay for hospital, medical and non-medical occupations, the creation of 15,000 additional positions, and new hospital governance, along with an investment of 6 billion euros in *établissements accueillant des personnes âgées en perte d'autonomie* (EHPAD) [care homes]. Union organisations have also played a significant role in supporting and informing their members, and more generally all employees, through numerous internet websites.

## 4. Future perspectives

Concerning paid employees in precarious situations, the debate currently focuses on implementing the reform of unemployment insurance, which includes taxation of short contracts starting from 2022.<sup>15</sup> It also looks at improving the labour market through access to training, as mentioned in the joint press release from

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15. On the development of short contracts: Bruno Coquet, Éric Heyer, *Contrats courts : trop de règles, pas assez d'incitations économiques* [short contracts: too many rules, insufficient financial incentives], Sens, December 2020, <http://ses.ens-lyon.fr/articles/contrats-courts-trop-de-regles-pas-assez-dincitations-economiques>

the ministries for labour and Europe and foreign affairs.<sup>16</sup> More generally, it is reasonable to presume that this double matter concerning the self-employed and precarious workers could make progress during the French presidency of the European Union Council during the first half of 2022.

Without explicit reference to the Recommendation,<sup>17</sup> several groups of studies have been initiated in France on a revision of self-employed status. A first set of remarks has been produced by the *Haut Conseil du Financement de la protection sociale* (HCFiPS 2020) [high council of financing for social protection], whose latest report dated May 2020 indicates different potential and recommended avenues for change. The first concerns simplification and more equal treatment between employees and the self-employed. This equity should involve a revision of the income tax base, given that self-employed people are currently mainly taxed via a generalised social contribution that provides them with no direct compensation in terms of social rights.<sup>18</sup> In addition, the self-employed declare low incomes and are subject to high levels of social contributions. This situation is all the more unfair given that employers of low-income employees benefit from numerous exemptions from social contributions, while the self-employed do not. Pursuing this hypothesis of bringing the self-employed closer to the general social security scheme, the authors of the report observe that it would be possible, without modifying the status of self-employment, to incorporate a large number of platform workers into the general scheme. This incorporation could concern social coverage only, with no impact on employment legislation. The recent example of the administrative switch from the *Régime social des Indépendants* [social scheme for the self-employed] to the *Régime général de Sécurité sociale* [general social security scheme] demonstrates the feasibility of this integration: an integration that would be improved if the health insurance scheme provided self-employed people with a higher-quality service.<sup>19</sup>

16. *Plan d'action pour la mise en œuvre du Socle Européen des droits sociaux : Elisabeth Borne et Clément Beaune saluent l'ambition de la Commission européenne* [Action plan for the implementation of the European Pillar of Social Rights, Elisabeth Borne and Clément Beaune welcome the ambition of the European Commission], Press release, 5 March 2021.

17. The Prime Minister's mission letter dated 13 January 2020 constituting this work group to produce the report on regulating digital platforms refers to Act 2016-1088 of 8 August 2016 on work, modernisation of social dialogue and securing of career paths. It was not until 5 June 2020 that a complementary mission letter reminded the chairman of the working group that its proposals will be 'in preparation for a summit on platform workers planned by the European Commission'.

18. While the payment of social contributions based on wages opens up eligibility to social rights, the *Contribution Sociale Généralisée* does not, since it works as a tax rather than insurance.

19. Created in 2006, the *régime social des indépendants* [social scheme for the self-employed – RSI] had 6.6 contributors on 1 January 2017. It was aimed at the liberal professions, auto-entrepreneurs, artisans, small retailers and self-employed freelancers. RSI paid out complementary pensions, daily sickness payments, and sickness and maternity benefits. Following significant technical problems related to calculating contributions and benefits, on 1 January 2018 the management of this scheme was transferred to the general social security scheme. This move did not modify the amounts of contributions and benefits.

The second report,<sup>20</sup> relating more directly to self-employed workers linked to the development of digital platforms, examines different hypotheses, including a maintenance of the status quo but with the acceptance of court rulings, which are likely to re-evaluate employment contracts in self-employment situations. An example is the Uber Decision made by the Court of Cassation on 4 March 2020 which re-evaluated the relationship between a driver and a platform as an employment contract. Among other hypotheses, the report examines and dismisses the application of employee status to all platform workers. The report also dismisses the hypothesis of creating a new status in-between those of employee and self-employed, due to a risk of levelling down and returning to the former special service agreements, whose disadvantages are well known and rejected. The report includes a proposal for an innovative compromise, which would involve generalising platform workers' use of intermediate organisations between employees and employers to provide them with a salary. This option already exists in the form of umbrella companies and employment and activity cooperatives. In such cases, platform workers receive a salary from the umbrella company and access the general social security scheme, unemployment insurance, and all employee rights and advantages (e.g. permanent contracts are required to access rented accommodation in large cities). They can also access the job retention scheme and measures such as the *compte pénibilité* [arduous work account], now known as the *compte professionnel de prévention* [occupational prevention account]. Along with these guarantees, self-employed workers signed up with umbrella companies retain their flexibility and autonomy: there is no subordinate relationship, and they remain free to organise their work as they please. Faced with the unilateral power of platforms and collective initiatives on the field, the organisation of collective relations between workers and platforms also emerges as a consensual solution for regulation.

The Senate's social affairs commission<sup>21</sup> is also favourable to exploring more constraining regulation of platforms than the current charters, and points to the more promising avenue of making working people's social rights more universal beyond their occupational status. This is already the case for the coverage of healthcare expenditure and could for example be applied to the right to training and holidays. The experiment of implementing a right to unemployment for the self-employed would have been a step in this direction if the constraints imposed had not led to the failure of this reform. Its forthcoming re-examination could be the starting point for a broader reform of social protection.

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**20.** Frouin J-Y., with input from Barfety J-B., *Réguler les plateformes numériques de travail* [regulating digital work platforms], Report to the Prime Minister, 1 December 2020 [https://www.gouvernement.fr/sites/default/files/document/document/2020/12/rapport\\_reguler\\_les\\_plateformes\\_numeriques\\_de\\_travail.pdf](https://www.gouvernement.fr/sites/default/files/document/document/2020/12/rapport_reguler_les_plateformes_numeriques_de_travail.pdf)

**21.** Forissier M., Fournier C., et Puissat Fr., *Rapport d'information présenté au nom de la commission des affaires sociales sur le droit social applicable aux travailleurs indépendants économiquement dépendants* [information report presented in the name of the commission for social affairs on the social right applicable to economically dependent self-employed workers], N 452, Recorded at the Senate on 20 May 2020.

## Conclusions

This chapter concerns two heterogeneous groups: self-employed people and non-standard workers. They have different statuses and depend on distinct social regimes, but both have been strongly impacted by the pandemic, either because they were frontline key workers, or because they were obliged to stop their activity, considered as non-essential. Despite the numerous and extensive measures implemented during the pandemic, many self-employed people had no access to state-guaranteed loans or sufficient grants from the Solidarity Fund, and found themselves in great difficulty. Not all workers were able to access the job retention scheme, which was the key support measure. As a result, a great number of these working people had to turn to the various solidarity and support initiatives offered by associations, sometimes including food aid.

Throughout the period, the pandemic had the effect of amplifying and revealing previous difficulties: social protection that is too partial and limited for the self-employed, and a work status that is too precarious for workers who do not have long-term contracts.

The progressive extension of universal coverage of healthcare expenditure and family protection in France has brought NSW/SE closer to standard workers in these two areas. However, the compensation measures adopted to make up for decreased income are in fact closer to social welfare benefits than insurance.

This situation has been well known for some time. In its aim to create more secure career paths and improve access to social rights, the government had favoured the emergence of reflections on the future of these professionals. Several scenarios have been put forward to date, ranging from maintaining the status quo subject only to court rulings, to full integration into the general social protection regime. The combination of more attention paid to these issues by the European Union and the forthcoming French presidency of the European Union Council could act as an accelerator.

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All links were checked on 09.09.2021.

## Annexes

### Annex 1: Key dates of the pandemic in France

24 January 2020	Announcement of first 3 cases of Covid-19 in France
15 February	First death in France
29 February	First restrictions
17 March	First lockdown
11 May	First progressive end of lockdown
1 June	29,000 deaths
30 October	Second lockdown, maintaining crèches and schools open
15 December	Second progressive end of lockdown
27 December	First vaccination
16 January 2021	General curfew at 6pm
3 April	Third 'looser' lockdown

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15 April	Threshold of 100,000 deaths reached
29 April	Announcement of end of lockdown in four stages, from 19 May to 30 June
1 June 2021	109,000 deaths
15 June	Over 30 million people had received their first vaccination
16 June	Early announcement of the end of numerous restrictions (wearing of face-masks outside, curfew)
12 July 2021	Announcement by the French President of a reinforced vaccination campaign and the establishment of a Health Pass in view of a likely fourth wave of the pandemic in France

## Annex 2: Extraordinary and temporary measures related to unemployment benefits in France

- *Suspension de la dégressivité de l'indemnité pour les hauts salaires* [suspension of the phased reduction for high salaries]. The scheduled 30% drop in the *Allocation de Retour à l'Emploi* [back-to-work allowance- ARE] for beneficiaries aged under 57 whose former salary was above €148.54 / day, or €4,518 / month, was suspended until 31 March 2021.
- *Allongement du délai de forclusion* [extension of time limit]. To be eligible for unemployment benefit, claimants at the end of their work contract formerly had 12 months to sign up as a job seeker with *Pôle Emploi* (job centre). Due to the health crisis, this period has been extended by the number of days without a work contract from 1 March 2020 to 31 May 2021.
- *Maintien de l'indemnité de formation* [maintenance of the training allowance]. In the case of suspension of a training course accredited by *Pôle Emploi* [job centres] opening up the right to claim *Allocation de Retour à l'Emploi-Formation* [back-to-work/training allowance, AREF] this allowance is maintained during the period of interruption.
- *Prolongation du versement de l'Allocation de Retour à l'Emploi* [extension of payment of back-to-work allowance, ARE]. For beneficiaries coming to the end of their eligibility for this principal unemployment benefit between 30 October 2020 and 31 January 2021.
- *Allongement de la période de référence d'affiliation* [extension of the employment reference period]. This period concerns the minimum duration of employment in order to be eligible for, or reaffirm eligibility for, unemployment benefit. It used to be 24 months, but is now automatically extended by three months, amounting to 27 months for employees aged under 53, and 39 months for those aged 53 and over.

- *Assouplissement de la durée minimale d'affiliation* [greater flexibility for the minimum employment period]. From 1 November 2019, to receive unemployment benefits, claimants had to have worked at least 130 days, or 910 hours (about six months) during the reference period mentioned above. Since 1 August 2020, this condition has been reduced to 88 days, or 610 hours (about four months) during the previous 24 months.
- *Dérogation aux conditions de cumul de l'ARE avec des tâches d'intérêt général* [exemption from conditions concerning a cumulation of ARE with general interest tasks]. By way of derogation, ARE may be cumulated with income earned from general interest tasks carried out as part of the response to the Covid-19 pandemic, whatever the number of hours involved in these activities.

Most of the measures were implemented during the first lockdown in mid-March 2020. Several have been readjusted, in particular between the two lockdowns, for example, the minimum employment period. Initially announced to apply until 31 December 2020, the measures have been extended every month so far in 2021 to reflect the health crisis situation.

These measures apply to all private-sector employees seeking employment and signed up at *Pôle Emploi* who receive unemployment benefits or meet the criteria to do so. At the end of June 2020, the number of claimants eligible for benefits represented 67.4% of unemployed people signed up at *Pôle Emploi* in categories A, B and C. Of these, 78.0% receive unemployment benefit.

These various measures, which are only adjustments to existing provisions, are not designed to be maintained beyond the public health crisis. Forthcoming conventions involving social partners will need to decide on new terms regulating unemployment benefit for jobseekers, and probably re-examine the unemployment insurance reform in its totality. While the reform of unemployment insurance had been suspended during the health crisis, the decree of 30 March 2021 (No. 2021-346, JO 31 March 2021) makes applicable, from 1 July 2021, a new method of calculating daily unemployment benefits. This measure is expected to affect 1.15 million job seekers in the first year of implementation, with a 17% reduction in the daily allowance.

# Country chapter Ireland

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## Introduction

This study focuses on social protection measures<sup>1</sup> related to unemployment benefits, sick leave and sick pay taken in Ireland during the Covid-19 pandemic and, in particular on specific measures for non-standard workers and the self-employed (NSW/SE).<sup>2</sup> Special pandemic leave also forms part of the overall project but no such general leave was introduced in Ireland. The period covered is 1 March 2020 to 1 June 2021.

Covid-19 was first identified in Ireland in late February 2020. This led to a first wave of infection and the government closed schools, colleges, childcare facilities and cultural institutions on 12 March 2020. Later in March 2020, almost all businesses, venues and amenities were shut. Legislation was passed to enforce various restrictions in this first wave. As discussed below, extensive social protection measures were introduced at this time in response to the economic downturn and rise in unemployment. Daily cases and deaths dropped to low levels by June 2020 and restrictions were gradually lifted, and schools re-opened in September. There was a further surge in cases (second wave) and in October another national lockdown was imposed, excluding schools. By early December, Ireland's infection rate was the lowest in the European Union and restrictions were eased in the run up to Christmas 2020.

The increased contacts and the more contagious Alpha variant led to a major surge (third wave) in late December and on 24 December another national lockdown was imposed. In February 2021, the government set restrictions on all incoming travellers. Serious cases fell sharply and schools re-opened in March

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1. In Irish terminology, social protection refers to benefits which are the responsibility of the Department of Social Protection. Issues concerning leave are generally a matter for the employment ministry, currently the Department of Enterprise, Trade and Employment. This chapter uses the term 'social protection' in this manner. For the purposes of this chapter, we use the following definitions of different types of employment (ILO 2016): Standard employees i.e. full-time open-ended contracts; non-standard workers i.e. contractual employment outside of full-time open-ended contracts (e.g. part-time, temporary contracts, zero-hour, seasonal workers etc.); self-employment, i.e. people working for their own account.
  2. The rationale for the study and definitions are set out in the Guidelines for experts and are not repeated here.

and subsequent measures have allowed a gradual reopening of most businesses with further relaxations planned for July 2021.<sup>3</sup>

The social protection response has consisted of two main actions:

1. Illness Benefit (IB) for Covid-19 absences; and
2. The Covid-19 Pandemic Unemployment Payment (PUP).

The Government also introduced a Temporary Covid-19 Wage Subsidy Scheme (now replaced by the Employment Wage Subsidy Scheme) operated by the Revenue Commissioners, but this is not considered a social protection scheme and is not discussed further here.

The trade unions have been actively involved in pandemic-related issues (such as health and safety at work) but have had limited engagement in social protection issues. This is the norm in Ireland, where trade unions have no formal role in the social protection system and little policy expertise.

There has been very limited discussion of the Council Recommendation on access to social protection for workers and the self-employed (hereafter ‘the Council Recommendation’) in Ireland.

Section 1 of this chapter describes the measures which have been introduced, Section 2 looks at the potential effects on NSW/SE workers while Section 3 discusses the role of national trade unions. Section 4 looks at future perspectives including the proposed introduction of statutory sickness pay and the Council Recommendation on access to social protection.

## **1. Description of measures**

### **1.1 Unemployment benefits**

The general unemployment benefit scheme involves a social insurance-based jobseeker’s benefit (JB) and a means-tested jobseeker’s allowance (JA). These are flat-rate benefits with increases for adult and child dependants.

To qualify for Jobseeker’s Benefit (JB), which is payable for up to 9 months, one must be aged under 66 and be unemployed, have suffered a substantial loss of employment, be capable of work and available for and genuinely seeking work and satisfy the social insurance contributions. In general the contribution conditions are that one must have 104 weeks of paid contributions since becoming insured

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3. By 1 June 2021, the Department of Health had confirmed 262,000 cases and almost 5,000 deaths. As of 31 May 2021, 2,700,000 total vaccine doses had been administered in Ireland (approximately 1,850,000 1<sup>st</sup> dose and 850,000 2<sup>nd</sup> dose).

and 39 weeks of paid or credited<sup>4</sup> contributions in the relevant tax year (or 26 weeks of paid contributions in both the relevant tax year and the previous tax year). The qualification conditions for JA are broadly similar except that it is subject to a means-test (which includes both income and capital) rather than contribution conditions.

Prior to 2019, self-employed persons were not insured for JB but might qualify for JA. However, the Social Welfare Act 2019 introduced a new Jobseeker's Benefit (Self-employed) scheme. To qualify for Jobseeker's Benefit (Self-Employed) one must be aged between 18 and 66; no longer be self-employed; be unemployed, be capable of work and available for and genuinely seeking full-time work, and satisfy the social insurance contributions (these are at least 156 weeks of paid self-employment contributions or at least 104 weeks of paid employment contributions and 52 weeks of self-employed contributions in the relevant tax year).

Other NSW workers may be insured for JB assuming they earn at least €38 per week (€5,000 per year as self-employed).

The government immediately (March 2020) introduced a broad Pandemic Unemployment Payment for workers who lost their jobs due to Covid-19. The Covid-19 Pandemic Unemployment Payment (PUP) is a weekly payment to employees and the self-employed who lost their job on (or after) March 13 due to the Covid-19 (Coronavirus) pandemic. It originally operated on an administrative basis (i.e. on the basis of rules approved by Government but without a formal legal basis) but has now been put on a statutory basis in the Social Welfare (Covid-19) (Amendment) Act 2020 (signed into law on 5 August 2020) which amended the Social Welfare (Consolidation) Act 2005. Given the scale of Covid-19 and the urgency of the situation, the Government decided to establish a new scheme rather than to rely on existing measures. In general people who became unemployed due to Covid-19 would qualify for the PUP and, therefore, few changes were made to the main JB/JA schemes (other than to remove temporarily the waiting day rules).<sup>5</sup> The PUP is described as an insurance payment but all persons in (insurable) employment at the time they lost work qualify without having to satisfy the normal contribution conditions (or a means test).

Given the need to put in place a payment urgently, a standard payment of €350 per week was initially made to all claimants. Graduated payments were subsequently introduced and currently the benefit rate is broadly linked to previous earnings. Thus, persons who earned:

- less than €200 per week receive €203 per week (the standard rate of JA/JB);

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4. Credited contributions are granted to a person with a previous record of paid contributions who is unable to continue contributing due to unemployment, illness, and similar contingencies.

5. Because PUP is flat rate, in some limited cases people with a number of dependents might be entitled to a higher rate on the standard schemes (which include increases for adult and child dependents).

- between €200 and €299.99 per week – €250 per week;
- between €300 and €399.99 per week – €300 per week;
- €400 or more – €350 per week.

It may be that, insofar as NSW workers report lower incomes, they are more likely to receive the lower bands but no specific data is available on this. However, self-employed people in receipt of the PUP are allowed to earn up to €960 over an eight-week period from their business, while retaining their full PUP entitlement.

It is currently planned that new claims for PUP will close as from 7 July and that the scheme will be ended by February 2022 with any remaining claimants transferring to JA or JB.

## 1.2 Sick pay and sickness benefits

The general sickness benefit scheme involves a social insurance Illness Benefit payable to insured persons (employees) for up to 2 years maximum. To qualify for IB one must be incapable of work and satisfy the contribution conditions. These are that one must have 104 weeks of paid contributions since becoming insured and 39 weeks of paid or credited contributions in the relevant tax year (or 26 weeks of paid contributions in both the relevant tax year and the previous tax year). IB is not payable to self-employed persons but may be payable to those in other NSW if they are insured.

In response to the Covid-19 crisis, one of the first actions of Government in 2020 was to introduce an enhanced Illness Benefit for person unable to work due to Covid-19 or who were advised to avoid working. Illness benefit (Covid-19) is a payment for employed and self-employed persons who are advised to self-isolate by a doctor or the Health Service Executive (HSE) or have been diagnosed with Covid-19 (Coronavirus). Unlike standard illness benefit (IB) (which only applies to insured employees) it also applies to the self-employed. In order to qualify for enhanced IB, a person must have been in (insurable) employment but does not have to satisfy the normal contribution conditions. The personal rate for this payment is €350 per week, as compared with the normal IB rate of €203, and there are no waiting days for the enhanced payment. The legal basis for the payment is the Social Welfare (Consolidation) Act 2005 as amended by the Health (Preservation and Protection and other Emergency Measures in the Public Interest) Act 2020 Act.

## 1.3 Special 'pandemic' leave

Ireland has not adopted special leave arrangements linked to the closure of childcare facilities and schools. There has been very extensive working from home and certain employers have adopted measures to help workers with childcare responsibilities. Traditionally, childcare has been seen as a personal responsibility and Ireland relies on largely private and family arrangements for childcare rather than publicly-funded facilities.

## 2. Potential effect of these measures on non-standard workers and the self-employed

There is, unfortunately, very limited evidence about the extent to which these arrangements addressed the needs of NSW workers affected by Covid-19. However, given how broad the measures have been, the impact must have been generally very positive. Given that the PUP and enhanced IB are payable to any persons in (insurable) employment at the time of the loss of employment (without a means test) and given that insurable employment is very broad in Ireland, the reforms introduced must have been inclusive for NSW/SE workers.<sup>6</sup>

The Economic and Social Research Institute (ESRI) has recently provided estimates of the impact of tax and welfare measures (Keane *et al.* 2021).<sup>7</sup> They estimate that '[f]amilies in the lowest income quintile actually experienced small income gains compared to the Pre-Covid scenario as a result of the more generous rate of PUP'.

In general terms NSW workers would be insured for the standard JB and IB schemes. However, the contribution requirements for such schemes are likely to be more difficult for them to satisfy. I am not, however, aware of any recent studies which have looked specifically at this issue. Nonetheless, the main response to Covid-19 was the introduction of the PUP and enhanced IB, which must be very accessible for NSW/SE workers.

The extension of jobseeker's benefits (and other benefits) to the self-employed is primarily driven by political factors, and this policy approach has been led by the centre-right Fine Gael party which has been in government since 2011 (as part of different coalitions)

Again, I am not aware of any data on the adequacy of PUP/enhanced IB but, as noted above, these are paid (in many cases) at a significantly higher rate than standard benefits. The main issue in public debate at present are suggestions that these benefits may be too high and be acting as a disincentive for some workers to return to employment, but again evidence on this issue is limited.<sup>8</sup>

An Oireachtas [Parliamentary] Special Committee on Covid-19 Response was set up in 2020 and reported in late 2020. However, it does not appear to have identified any issues specifically concerning NSW/SE. Similarly, the Oireachtas Joint Committee on Social Protection (2020) reviewed the operation of the PUP and again did not raise any specific issues concerning NSW/SE.

6. As noted above, any employee who earns more than €38 per week or self-employed person earning more than €5,000 per year, is insurable. By way of reference, the current minimum wage in Ireland is €10.20 per hour.

7. The study does not provide any specific information on NSW/SE workers.

8. The recent ESRI study (Keane *et al.* 2021) estimates that approximately 5% of individuals have a replacement rate (RR) greater than 100% once the PUP is introduced, while close to 15% have a relatively high RR, greater than 75%. Of course, financial work incentives are just one factor in labour supply decisions.

In terms of numbers, there has been a steady fall in PUP claimants from a peak of almost 600,000 in early May 2020 to 310,000 on 1 June 2021. Men make up 54% of claimants and women 46%. However, men are more likely to receive the higher rate of PUP (64%) while women are more likely to receive the lowest rate (55%). The sector with the highest number of people in receipt of the PUP is now accommodation and food service activities (29% of the total), followed by the wholesale and retail trade (15%) and administrative and support service activities (9%). The published data does not allow identification of NSW/SE workers.

In terms of numbers, the number of people receiving IB (Covid-19) has always been much smaller than those receiving the PUP. In late May 2021, there were just over 1,000 people in receipt of IB (Covid-19). In total, up to that date, 153,000 people had been medically certified for receipt of IB (Covid-19), of whom 54% are women and 46% are men. The sectors with the highest number of claimants are wholesale and retail trade (21% of the total), human health and social work (18%) and manufacturing (14%).

### **3. The role of national trade unions**

The trade union confederation is the Irish Congress of Trade Unions (ICTU). There are currently 44 trade unions with membership of Congress. Based on Labour Force Survey data, union density was 26% in 2020 and is higher among women (30%) than among men (22%). About 15% of trade unions affiliated to ICTU are affiliated to the Labour Party (currently a small opposition party with less than 5% of the vote) but Congress itself has no political affiliations.

The trade unions, including ICTU, have historically had a limited input in the design of social protection measures in Ireland and no role in implementation, other than in bringing any issues of concern to the attention of the relevant Department. Trade unions are, in general, somewhat more involved in relation to employment-related policies such as leave, but this tends to be negotiated more on a sectoral basis by individual unions than by ICTU. The focus has tended to be primarily on wage-related issues and conditions of employment (e.g. hours of work).

ICTU has made submissions to the Oireachtas [Parliamentary] Committee on Social Protection on the PUP but this did not refer specifically to issues concerning NSE. ICTU has also been involved in the discussion of the proposed introduction of statutory sick pay.<sup>9</sup> The proposals for sick pay (see Section 4) were discussed at the Labour Employer Economic Forum which includes ICTU and the employer's federation Irish Business and Employers Confederation (IBEC) in addition to government.

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<sup>9</sup> See Joint Committee on Enterprise, Trade and Employment debate - Wednesday, 16 Dec 2020.

There is no evidence that the trade union movement had any significant role in the design and/or implementation of the specific measures described in this chapter during the pandemic. However, ICTU did call for reforms to the Illness benefit scheme and for a temporary wage subsidy scheme<sup>10</sup> and, in its submission to a parliamentary committee, ICTU identifies a role in ‘identifying anomalies and finding solutions in the administration of the PUP’.<sup>11</sup>

The trade unions have generally welcomed the measures and concerns raised related to rates of benefit, continuation of support, the application of jobsearch rules to persons whose jobs were closed and general control measures.

While ICTU welcomes increased coverage for self-employed workers, it is concerned that the increased access to social insurance benefits for the self-employed over recent years has not been matched by a corresponding increase in their insurance contribution.

#### 4. Future perspectives

In general, the measures taken initially were very broad and only limited reforms have been adopted subsequently, including introducing graduated payments for PUP (related to previous earnings) rather than flat-rate payments. The main current debates are about when and how supports should be phased out as and when the economy returns to a more normal situation. The government has recently announced that it plans to retain PUP until February 2022 with some phased reduction over the period to then. However, whether this will be implemented remains to be seen and will depend, in part, on economic and health developments. There do not appear to be any specific discussions about the impact on non-standard workers and the self-employed.

However, as a result of Covid-19, pressure for some form of statutory sick pay has emerged in Ireland. A Sick Leave and Parental Leave (Covid-19) Bill 2020 was introduced in the Dáil by the Labour Party in September 2020. Subsequently, the Oireachtas Special Committee on Covid-19 Response (2021) issued a report recommending the establishment of a statutory sick pay requirement for low-paid workers, such as those working in nursing homes and meat plants. The current Tánaiste [Deputy Prime Minister] and Minister for Enterprise, Trade and Employment has stated that the Government ‘is committed to introducing a statutory sick pay scheme that works for employees and employers as quickly as possible’. Following this, the Department of Enterprise, Trade and Employment (D/ETE) launched a public consultation process on the introduction of a statutory right to paid sick leave for all employees.<sup>12</sup>

<sup>10</sup>. ICTU letter to An Taoiseach [Prime Minister], 4 March 2020.

<sup>11</sup>. ICTU Submission to the Committee on Social Protection – Pandemic Unemployment Payment (PUP) Scheme, undated.

<sup>12</sup>. Ibid.

Earlier in June 2021, the Government announced that employees (who have to have worked for their employer for at least the previous six months) are to get a right to be paid for up to 10 days of sick leave per year by 2025. The new scheme is to be phased in over the next four years. Under the proposed Sick Leave Bill 2021, employees will be entitled to three days per annum from next year, rising to five days the following year and then seven days in 2024, before reaching the maximum of 10 days in 2025. Payment will be at 70% of an employee's wage subject to a maximum of about €40,000 per year. Legislation has not yet been published at the time of writing and, of course, has to be adopted by the Oireachtas [Parliament].

There has not been a public debate in Ireland on the Council Recommendation. A scrutiny report by the Minister for Social Protection to the Irish Parliament states that Ireland is 'broadly supportive' of the Council Recommendation and points out that Jobseeker's Benefit was extended to the self-employed from November 2019 and that a new Parent's Benefit, which was introduced from November 2019, also applies to the self-employed (Minister for Employment Affairs and Social Protection 2020).<sup>13</sup>

## Conclusions

Overall, there has been a very significant social protection response to Covid-19 which has been, from the first, much broader than the normal social protection approach and which has extended non-means tested payments to NSW workers. It may be for that reason that few specific issues concerning such workers have been identified.

As discussed above, access to benefits has been expanded to all those in insurable employment and there are no other contributions requirements (such as a requirement to have a certain minimum number of social insurance contributions paid in total or in a specific period). Although there does not appear to have been specific research on this point, this must have been of significant benefit to NSW/SE workers. In addition, the rate of benefit was (in many cases) significantly higher than the standard rate of benefit, and again this must have been of benefit to all workers including NSW/SE workers.

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<sup>13</sup> The Council Recommendation is mentioned briefly in an ICTU submission to the Oireachtas Committee on Budgetary Oversight. It is also mentioned in a Parliamentary Briefing concerning the introduction of jobseekers benefit for the self-employed in 2019 (Oireachtas Library and Research Service 2020).

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# Country chapter Italy

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## Introduction

Italy was the first European country to be hard hit by the Covid-19 pandemic. After the identification of the first Covid-19 cluster in Northern Italy (February 21, 2020), the epidemic swiftly spread all over the country. In response to the rapid increase in infection cases, the Italian government imposed a national lockdown between 9 March 2020 and 4 May 2020, restricting the movement of the population except for necessity, work, and health circumstances. Moreover, in autumn 2020, the Italian government introduced further measures due to the resurgence of infections during the 'second wave' of the epidemic.

This exceptional context revealed the pivotal role of social protection, highlighting the crucial role of social security in attenuating the social and economic crisis. In this regard, the Italian government adopted a series of decree laws to (i) address the impact of the pandemic and the lockdown-related interruption of several economic sectors and (ii) introduce or reinforce social protection for workers hit by the crisis. The first of these decrees, named 'Cure Italy', was passed on March 17<sup>th</sup> 2020, followed by the decrees 'Relaunch' (19 May 2020), 'Relief' (9 November 2020) and 'support' (13 March 2021). The 2021 Italian Budget Law (30 December 2020) introduced other measures along these lines.

The health and socio-economic crisis had an uneven impact on different categories of workers: workers in non-standard employment (NSW) and the self-employed (SE)<sup>1</sup> were not only the categories least protected by the Italian welfare state structure, but also among the most severely affected by the economic shutdown.

In this regard, the Italian government adopted social measures that (i) reinforced existing tools and (ii) introduced new ad-hoc income compensation for specific categories of non-standard workers and the self-employed. Social protection measures have been taken by the government mostly as emergency measures, via decree law, and trade unions' (TUs) involvement in the government decision-making process often occurred through informal and non-institutionalized dialogue. In the opinion of some of the main Italian TUs, the measures adopted

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1. For the purposes of this chapter, we use the following definitions of different types of employment (ILO 2016): Standard employees i.e. full-time open-ended contracts; non-standard workers i.e. contractual employment outside of full-time open-ended contracts (e.g. part-time, temporary contracts, zero-hour, seasonal workers etc.); self-employment, i.e. people working for their own account.

to protect the self-employed and atypical workers have been necessary but not sufficient in order to systematically extend the Italian welfare system to these workers and implement the 2019 Council Recommendation on access to social protection for workers and the self-employed.<sup>2</sup>

Against this background, this chapter aims to investigate the effect of the Covid-19 related measures taken between 1 March 2020 and 1 June 2021 on NSWs and SEs in Italy. The study is structured around four sections. The first describes the existing welfare system in Italy in terms of unemployment, sickness benefits and leave, and presents the measures taken in the area during the pandemic. The second section focuses on the coverage and effects of these measures with respect to NSWs and SEs. The third section explores the involvement of the main Italian trade unions in the decision-making process during the pandemic and their assessment of the measures adopted to protect NSWs and SEs. The fourth section presents the debate relating to the social protection/situation of non-standard workers in Italy, in the light of the response to the Council Recommendation on extension of social protection to all workers.

## 1. Description of measures

### 1.1 Unemployment benefit

Two different unemployment benefit schemes (NASpI and DISCOLL) exist in the Italian welfare system. For both benefits, a claim has to be presented within 68 days of involuntary redundancy, and this gives entitlement to earnings-related compensation. The NASpI (*Nuova Assicurazione Sociale per l'Impiego*) covers employees and assimilated workers and is conditional on both paid contributions and a sufficient work history. The benefit can be paid for a duration amounting to half the number of weeks for which contributions have been paid during the last four years prior to dismissal.

Those previously employed in para-subordinate collaborations,<sup>3</sup> research fellows, and PhD students on a scholarship, exclusively registered with the *Istituto Nazionale Previdenza Sociale* (INPS) Separate Fund (*Gestione Separata*),<sup>4</sup> are entitled to benefits under a separate unemployment scheme: DISCOLL (*Indennità di Disoccupazione Mensile*). The benefit can be paid for half the number of months for which contributions have been paid in the period starting from 1<sup>st</sup> January of

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2. The Council Recommendation of November 8<sup>th</sup> 2019 (2019/C 387/01).
  3. Para-subordinate collaborations are contracts with characteristics of both self-employment and dependent work. Coordinate and Continuous Collaboration (*Collaborazione Coordinata* and *Continuativa*, CO.CO.CO) implies coordination between the worker and the client/employer, yet the employees organise their work independently.
  4. The national social welfare institution (INPS) includes a special pension fund named the INPS Separate Fund. The Separate fund, inter alia, covers para-subordinate workers (COCOCO), all categories of self-employed professionals for whom no specific social security fund exists, and occasional self-employed workers. Some sources refer to professionals covered by the Separate Fund as the 'new self-employed', to distinguish them from the traditional self-employed, such as farmers, craftsmen and tradesmen (see MISSOC 2020).

the year prior to dismissal, for a maximum of six months. Access to the benefit is conditional on having paid at least one month of contributions during the calendar year prior to the year of dismissal.

Although individual and collective layoffs for all dependent employees were suspended from February 23<sup>rd</sup> 2020, Italy also adopted a series of measures related to unemployment. On the one hand, the ‘Cure Italy’ decree and the ‘Relaunch’ decree extended, by two additional months each, the duration of NASpI and DISCOLL benefits expiring in March–April 2020 and May–June 2020 respectively. Furthermore, during the pandemic, the conditions for accessing the general unemployment benefit scheme (NASpI) were eased. For NASpI claims presented by the end of 2021, the only condition is having paid thirteen weeks of contributions in the four years prior to involuntary dismissal. The qualifying period of 30 actual working days in the twelve months preceding the involuntary dismissal has been suspended.

Moreover, the 2021 Budget Law introduced a new income support scheme for certain self-employed categories, the ‘Extraordinary Allowance to Guarantee Income and Operational Continuity’ (*Indennità Straordinaria di Continuità Reddittuale e Operativa*, ISCRO). This scheme, introduced on an experimental basis for 2021–2023, targets professionals enrolled in the INPS Separate fund who have suffered a significant drop in income, of at least 50%, compared to their average income of the last 3 years.<sup>5</sup> The benefit covers 25% of their average income over the 3-year period, up to a maximum of €800 (Jessoula *et al.* 2021).

## 1.2 Sick pay and sickness benefits

Italy provides sickness benefit to replace the worker’s income during sick leave. The benefit is first paid on the 4<sup>th</sup> day of leave.<sup>6</sup> Sickness benefits are provided with medical proof of sickness and until the end of the prognosis, for a maximum duration of 180 days per calendar year. Entitled categories include insured (private and public sector) employees and assimilated workers, the unemployed, apprentices, para-subordinate workers, the ‘new self-employed’ under a separate pension scheme (since 2019). The benefit is related to previous earnings and does not generally require a qualifying period, although slightly different rules on benefit calculation or contributory requirements apply to certain categories, such as civil servants and para-subordinate workers.

Italy reacted to the pandemic by adapting and improving the existing measures. With regard to sick pay, the ‘Cure Italy’ decree extended the existing rules and benefit in case of sickness to workers in quarantine and allow workers with specific critical health conditions to abstain from work as if they were hospitalized. Finally, Covid-19 is dealt with in the same way as any other sickness, and the employer’s costs, due to continued remuneration of workers during sickness

5. Recipients’ yearly income cannot exceed €8,145.

6. The first three days are paid by the employer, if foreseen by the sectoral CNL.

leave, are fully reimbursed. Moreover, from March 2020, for employees, periods spent in mandatory quarantine for Covid-19-related reasons are not included in the maximum number of days for which a worker can receive sickness benefits.<sup>7</sup> Finally, Decree N. 111/2020 of September 2020 introduces a specific parental leave, with payment of 50% of the worker's wage in case of work absence to take care of children younger than 14 years old affected by Covid-19 or in quarantine (Jessoula *et al.* 2021).

### 1.3 Special pandemic leave

As the Covid-19 outbreak began, Italy attempted to increase the support to families. The 'Cure Italy' decree of March 2020 introduced the right to a total of 15 paid days of parental leave for parents with children under the age of 14, covering 50% of their salary, to mitigate the disruption caused by school closures. The Relaunch decree extended the measure until the end of August 2021, and increased the number of days from 15 to 30 (Jessoula *et al.* 2021). The leave may not be taken on the same days by both parents, who have to alternate.<sup>8</sup> The benefit targeted private and public sector employees and the self-employed enrolled with INPS or the INPS Separate fund. As an alternative to parental leave, parents could claim a €600 voucher to purchase babysitting services (the so-called 'Babysitters bonus'). The benefit is also available to non-standard workers and self-employed parents. Moreover, the 'Relaunch' decree of May 2020 increased the maximum value of the baby-sitting voucher (€1,200 or €2,000 for workers in specific sectors, e.g. healthcare), which could also be used to pay for children's enrolment in summer camps (Jessoula *et al.* 2021).

'Covid leave' extends the leave days foreseen in pre-pandemic times for parents, not only in terms of leave days but also concerning the child's age. In Italy, parents are entitled to 'supplementary parental leave', leave on reduced pay for a maximum total of six months until the child reaches the age of three. This benefit can be claimed for a further 5 months up until when the child reaches the age of 12, but the cash benefit depends on the parents' economic situation. Parental leave is available to insured employees and assimilated workers (with no need to meet qualifying conditions), while the self-employed are entitled to maternity/paternity benefit but not to the supplementary parental leave.

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7. Covid-19 EU Policy-Watch. Database of national-level responses: [https://static.eurofound.europa.eu/covid19db/cases/IT-2020-12\\_452.html](https://static.eurofound.europa.eu/covid19db/cases/IT-2020-12_452.html)

8. The leave cannot be combined with other income protection tools in case of unemployment or with the standard parental leave.

## 2. Potential effect of these measures on non-standard workers and the self-employed

The pandemic shone a spotlight on the structural weaknesses of the national welfare system, given the peculiarity of the Italian labour market. While the pivotal Italian social measures preserved the situation of employees, certain NSWs and the self-employed were previously either less protected or excluded from protection. However, the pandemic pushed the Italian government to adopt a more inclusive approach by (i) reinforcing the pre-existing protection schemes, (ii) creating new measures to cover atypical workers and the self-employed on an equal footing with employees ('baby-sitting bonus'), (iii) implementing complementary social assistance measures. Indeed, a series of new allowances and social assistance measures were adopted, such as the Emergency Income (*Reddito di Emergenza*, REM) or the flat rate allowances for certain groups of NSWs and SEs. Finally, (iv) a new and more structural ad-hoc measure was introduced (the 'ISCRO').

Overall, the Italian government's efforts generally increased the social protection of non-standard workers during the pandemic period and filled some gaps in the pre-existing system. In most cases, the wide range of measures adopted helped to attenuate the emergency, providing sufficient economic support to individuals. The welfare costs amount to approximately 2.7% of 2019 GDP: among other actions, the government increased job protection measures (+ €31.2 billion), minimum income schemes/other forms of social assistance (+ €7.35 billion), unemployment benefits (+ €1.9 billion) and emergency leave (€680 million) (Jessoula *et al.* 2021). Nevertheless, the temporary nature of the measures adopted has raised some concerns and highlighted the crucial need for structural intervention.

Although the incomplete data do not allow for an in-depth analysis of the effects of the measures adopted on these workers, some preliminary conclusions can be drawn by considering the potential recipients and the data referring to 2020. The pandemic-related measures targeted a larger number of workers and potentially covered many non-standard workers and self-employed.

With regard to unemployment benefit, the technical document attached to the 'Cure Italy' decree estimates a potential pool of DISCOLL recipients of around 4,200 individuals (Jessoula *et al.* 2021). Moreover, the Italian government provided complementary measures related to minimum income schemes. Firstly, unemployed persons whose DISCOLL benefit had expired between 1 July 2020 and 28 February 2021, and who are within a maximum value of the Equivalent economic situation indicator (*Indicatore della Situazione Economica Equivalente*, ISEE) of €30,000 per year are entitled to apply for an emergency income (*Reddito di Emergenza*). Secondly, the government introduced a monthly lump sum allowance for some categories of self-employed, para-subordinate, intermittent and seasonal workers registered with the INPS. According to the INPS,<sup>9</sup> about

9. 'Indennità 600 – 1000 euro. Analisi delle tutele previste durante la pandemia per autonomi, agricoli, stagionali, intermittenti ed altre categorie. INPS coordinamento generale statistico attuariale. March 2021.

4.2 million individuals benefited from these allowances, each receiving €1,400, on average. Overall, the take-up rate for the self-employed is approximately 85%, and they represent a significant share of the total recipients (67%).

Furthermore, a new and more structural measure, the ISCRO, was introduced to protect certain groups among the self-employed from loss of income. The ISCRO has two peculiar features: on the one hand, it is the only measure with less of an emergency character, but with a longer-term perspective; on the other, it is the first income support scheme introduced in Italy targeting the self-employed enrolled in the INPS Separate fund who do not have access to any unemployment scheme (290,000 individuals according to Jessoula *et al.* 2021).

The sick pay and sickness leave measures adopted during the pandemic failed to include workers not enrolled in the INPS Separate fund. The other SEs categories have to rely on their private social security funds to receive potential economic support. Similarly, the special Covid-related parental leave, available during the period when educational services for children and educational activities in schools are suspended, is open to self-employed workers only if registered with the INPS. However, the voucher to purchase baby-sitting services also includes the self-employed belonging to private funds among the potential benefit recipients.<sup>10</sup> According to the INPS,<sup>11</sup> about 621,000 individuals, either employed in the private sector or self-employed, applied for this voucher and most of them are women (70%). The INPS assessment of the measure reports that the bonus was able to attract a new group of workers, either because they were more reluctant to call upon standard family support measures or because they were unable to do so for other reasons.

In conclusion, the measures adopted by the Italian government have both positive and negative aspects. On the one hand, they increased the social protection available and extended the number of potential recipients. On the other, the government's intervention has two main limitations. First, most of the measures are temporary; ISCRO is the only longer-term tool. Secondly, some NSWs and SEs still suffer from lower and unequal protection.

### 3. The role of trade unions

The Italian trade union system consists of large confederations plus a series of smaller organisations. The three main unions (TUs) for representation and historical reasons are: (i) the General Confederation of Italian Workers (*Confederazione Generale Italiana del Lavoro*, CGIL), (ii) the Italian Confederation of Workers' Trade Unions (*Confederazione Italiana Sindacati Lavoratori*, CISL) and (iii) the Union of Italian Workers (*Unione Italiana del Lavoro*, UIL). These three organizations, all affiliated to the European Trade Union Confederation

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<sup>10</sup>. <https://www.inps.it/news/bonus-baby-sitting-istruzioni-per-la-domanda>

<sup>11</sup>. 'Bonus baby-sitting. Un andamento oltre le attese che conferma il bisogno di servizi alla famiglia'. INPS coordinamento generale statistico attuariale. March 2021.

(ETUC), have a confederal structure. The member federations and trade unions are organised by industry or sector, given the sectoral dimension of collective bargaining in Italy.

Within the three confederations, particular categories of non-standard and self-employed workers are represented by the following sectoral federations: (i) CGIL New Identity of Work (*Nuove Identità di Lavoro*, NIDIL), (ii) CISL Federation of Temporary, Atypical and Self-Employed Workers (*Federazione Lavoratori Somministrati, Atipici e Autonomi*, FELSA) and (iii) UIL National Category of Temporary, Atypical and Self-employed Workers (*Categoria Nazionale Lavoratori Temporanei, Autonomi, Atipici e Partite IVA*, UILTEMP). According to the FELSA's national representative,<sup>12</sup> the importance of the federation and the dialogue concerning social protection and working conditions of non-standard workers have been increasing in recent years, within the confederation.

In Italy, the social dialogue between the government and the social partners is generally at the government's discretion, and tripartite social dialogue does not have a formal institutional structure (Engin 2018). The traditional institutional settings for social dialogue with the institutions are the parliamentary hearings; there is also a tripartite body, with a solely advisory role, in which social partners and trade unions are represented: the National Council for Economics and Labour (*Consiglio Nazionale dell'Economia e del Lavoro*, CNEL).

During the pandemic, given the urgent need for support measures to alleviate the effects of the pandemic and the lockdown, the government predominantly adopted protective measures by Decree Law and, consequently, bypassed ex-ante consultation with the trade unions. According to a recent Eurofound study,<sup>13</sup> the Italian government involved trade unions primarily via ex-post consultations, which sometimes resulted in adjustments and additions to the measures.<sup>14</sup> Indeed, with regard to social protection and inclusion of NSWs and SEs, CGIL and CISL-FELSA report a mostly informal dialogue with the government and institutions. Moreover, the practice of consulting social partners in dedicated parliamentary hearings has continued over the last year and a half. The CGIL representative for the labour market area reports on the effectiveness of some discussions with the political parties. For instance, some of the TUs' demands regarding income support measures for showbusiness workers were acknowledged and included in the 'support Decree'.<sup>15</sup>

Although, in general, the social partners backed the various government measures (Pedersini 2020), the CGIL representative for the labour market area (interviewed for this analysis) claims that the ad-hoc measures for NSWs and SEs adopted during the pandemic were stop-gap measures, and that the Italian welfare system does not extend uniform and adequate social coverage to non-standard and self-

**12.** Representative interviewed for this study.

**13.** Pedersini 2020.

**14.** The trade unions were involved more actively with regard to CIGS short-work and the remote-working regulation.

**15.** Information obtained through interviews with trade union representatives.

employed workers. CGIL again describes the income support measures as one-off and unusual, and repeats the need for systemic coverage of these categories, which are representing an ever larger share of the Italian labour market.

However, the introduction of the ISCRO with the Budget Law 2021, with its longer time horizon stretching beyond the likely duration of the pandemic, is a significant step towards more structural coverage of the self-employed by the national welfare system. The measure stems from a proposal by the CNEL and therefore reflects an active role for TUs. Despite some limitations of the measure in terms of access requirements and potential recipients, the adoption of the ISCRO was positively welcomed by trade unions.<sup>16</sup>

#### **4. Debate and future perspectives**

With the Covid-19 pandemic, the issue of social welfare adequacy in a context of labour market fragmentation became more prominent in the socio-political debate. The CGIL international affairs representative reports an intense dialogue also within the ETUC on social protection for non-standard and platform workers.<sup>17</sup> In Italy, these platform workers end up in a grey area between self-employed and dependent work, with a consequent lack of regulation.

Even before 2020, the shortcomings of many European welfare systems with respect to non-standard workers was giving rise to concern at European level. In November 2019, the European Council issued a recommendation urging Member States to ensure universal social security for all workers. According to the Council, the self-employed should be put on an equal footing with employees in terms of access to adequate social security systems, regarding, inter alia, sickness and disability benefits, parental leave and unemployment schemes. Although, during the pandemic, the Italian government adopted social measures that also covered certain categories of NSWs and SEs, the adoption of the ISCRO seems the only tool which looked beyond the crisis and, therefore, is a step towards a more systematic coverage of self-employed workers as envisaged by the Recommendation. Indeed, the scant media coverage of the Council Recommendation suggests that the document did not have a resounding political impact, probably because of its purely advisory value.

Future social measures are expected to protect non-standard workers and the self-employed, since the Italian Recovery and Resilience Plan (*Piano Nazionale di Ripresa e Resilienza*, PNRR) mentions, although only as an additional objective and without a detailed programme, the importance of strengthening the social safety net by establishing protection for discontinuous, precarious workers and the self-employed.

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<sup>16</sup>. Information obtained through an interview with a FELSA (CISL) representative.

<sup>17</sup>. Representative interviewed for this study.

## Conclusions

In this chapter, we discuss the measures adopted during the Covid-19 pandemic by the Italian government to protect non-standard workers and the self-employed. The government took a series of emergency measures to cover some structural gaps in the Italian welfare system affecting these categories of workers. With regard to income protection in case of unemployment, some non-standard workers benefited from the extension of the existing unemployment benefit scheme, the DISCOLL. For some categories of professionals, ad hoc support systems were created, mostly in the form of allowances to cushion income loss. Other measures to protect workers affected by the pandemic and its socio-economic consequences were the extension of sickness benefits to include periods of quarantine, and the granting of Covid-specific parental leave to help parents cope with school closures, although the standard self-employed were not included in its target group.

The government adopted the vast majority of these measures via decree law, due to the emergency dimension of the pandemic. Consultation with the trade unions on the issue of social protection for non-standard workers - in terms of income protection schemes, sickness benefits and leave - occurred mostly via informal discussions, and the measures adopted by the government were, overall, welcomed by the TUs. In general, almost all the measures adopted to protect non-standard and self-employed workers, with the main exception of the ISCRO scheme, were limited in time and lacked the structural dimension envisaged by the Council Recommendation of November 2019 on the extension of national welfare to all workers and the self-employed.

Nevertheless, it is clear that the Covid-19 pandemic has highlighted the need for a more adequate welfare system in a context of labour market fragmentation, and possible adjustments and developments are expected for the future.

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# Country chapter Lithuania

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## Introduction

This chapter describes Covid-19 income support measures related to unemployment, sickness and the self-employed, as well as the potential effect of these measures on non-standard workers (NSW) and the self-employed (SE),<sup>1</sup> the role of national trade unions and future perspectives.

A state of emergency related to Covid-19 was announced in Lithuania on 26 February 2020. There were two nationwide lockdowns, from 16 March to 16 June 2020 and from 7 November 2020 to 1 July 2021. Between the two lockdowns, local lockdowns were announced by some municipalities. The fiscal Covid-19 relief package involved around €3.5 billion (7% of 2019 GDP) in 2020 and around €1.2 billion (around 2.4% of 2019 GDP) for 2021 (MoF 2021a; MoF 2021b). The main income support measures during the pandemic included the regular social insurance schemes (unemployment benefits, sickness benefits) as well as newly introduced schemes (jobseeker's allowance, flat-rate benefit for the SE and wage subsidies).

Since January 2017, the owners of individual enterprises, members of small partnerships, and partners of general partnerships have been eligible for unemployment benefits. As for newly introduced schemes, both the jobseeker's allowance and the benefit for the SE were of a low level, but were broad in their coverage. Stricter eligibility conditions for the jobseeker's allowance were introduced at the beginning of 2021, and stricter conditions for the benefits for the SE have applied since July 2021. The newly introduced Covid-19 measures are gradually being phased out, with most of the measures being foreseen only for the period of lockdown and 1-2 months thereafter. Hence, they should be discontinued by the autumn of 2021.

The social partners were consulted on an ad-hoc basis during the introduction of the Covid-19-related social protection measures discussed in this chapter; no tripartite meetings were held. One more structured way of discussing measures to cushion the social consequences of the pandemic in 2020 was in the Advisory

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1. For the purposes of this chapter, we use the following definitions of different types of employment (ILO 2016): Standard employees i.e. full-time open-ended contracts; non-standard workers i.e. contractual employment outside of full-time open-ended contracts (e.g. part-time, temporary contracts, zero-hour, seasonal workers etc.); self-employment, i.e. people working for their own account.

Group for Post-Quarantine Social Issues under the Ministry of Social Security and Labour. The social partners were also invited to participate in the group. Following the change of Government, the Advisory Board of Independent Experts was set up and has been holding meetings on a regular basis since December 2020 (koronastop.lrv.lt 2021). The Board includes representatives of the biggest trade union umbrella organisation – the Lithuanian Trade Union Confederation (LTUC). The Board is, however, focused on epidemic management measures, rather than managing the social consequences of the pandemic. Other formats for cooperation include ad-hoc meetings and online public consultations. The latter are criticised for being more of a public relations’ measure rather than an effective mode of cooperation, with little action taken on proposals and feedback provided during the consultations. According to academic evaluations, the lack of cooperation and stakeholder involvement was not resolved during the Covid-19 pandemic (Bortkevičiūtė *et al.* 2020).

The Council Recommendation on access to social protection for workers and the self-employed 2019 (hereafter ‘the 2019 Council Recommendation’) was not publicly discussed in Lithuania, nor was it discussed in the Parliamentary committees for Social Affairs or European Affairs. Yet, on 15 May 2021, the Ministry of Social Security and Labour prepared a National Plan as part of the monitoring process of the 2019 Council Recommendation (MoSSL 2021a).

The Covid-19 income support measures related to unemployment, sickness and the SE are described in Section 1. Section 2 discusses the potential effect of these measures on NSW and SE. Furthermore, the role of national trade unions and future perspectives are discussed in Sections 3 and 4. Finally, the conclusions summarize the main insights of the chapter. The time period of the measures included in the chapter is: March 2020- 1 June 2021.

## **1. Description of measures**

### **1.1 Unemployment benefits**

#### **1.1.1 Access of NSW and SE to the general unemployment benefit scheme**

Unemployment benefit (*nedarbo išmoka*) is a monthly benefit organised via a compulsory insurance system. SE, persons working on civil contracts,<sup>2</sup> and trainees<sup>3</sup> are not covered. Employed persons receiving remuneration for work from employers, including NSW and apprentices,<sup>4</sup> are eligible for unemployment benefits. Since January 2017, the owners of individual enterprises, members of

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2. The Civil Code refers to consumer contracts (*vartojimo sutartys*) under which a natural person undertakes to provide goods or services to the consumer and the consumer undertakes to accept them and pay the agreed price (e-tar.lt 2000).

3. Here and thereafter: trainees are students or registered unemployed in professional practice or professional rehabilitation programmes and those carrying out voluntary practice.

4. Here and thereafter: apprentices are people employed on apprenticeship contracts (*pameistrystės sutartis*), as referred to in the Labour Code of the Republic of Lithuania.

small partnerships, and partners of general partnerships have also been eligible for unemployment benefits.

In order to receive unemployment benefits, the insured person must be registered with a local Employment Service unit as unemployed, must have paid social insurance contributions for at least 12 months during the last two and a half years and have been looking for a job.

Both the coverage and amount of the unemployment benefit have been increased since 1 July 2017. The unemployment benefit is paid for up to nine months. The unemployment benefit consists of a fixed component and a variable earnings-related component. The fixed component has been set at 23.27% of the minimum monthly wage (thereafter MMW) since 2019. The earnings-related component of the unemployment benefit depends on the previous insured income and decreases over the period of receipt (i.e. 38.79% of the former earnings during the first three months of receipt, 31.03% between the fourth and the sixth month of receipt, and 23.27% between the seventh and the ninth months of receipt). The ceiling for the unemployment benefit is 58.18% of the gross average wage (e-tar.lt 2003).

### 1.1.2 Measures taken during the pandemic

A new temporary jobseeker's allowance (*darbo paieškos išmoka*) was established during the pandemic, available to both standard workers and NSW. The allowance covered all unemployed persons registered with the Employment Service in 2020 and not entitled to contributory unemployment benefits. The amount of the jobseeker's allowance was €200 per month in 2020. Moreover, a €42 temporary jobseeker's allowance was paid as a top-up to unemployed people receiving contributory unemployment benefits. The new allowance was paid for a maximum of six months, but not after 31 December 2020. The newly introduced allowance helped bridge the gap in the coverage of unemployment insurance benefits.

Since January 2021, an additional eligibility condition has been introduced - the person's employment contract or legal relations deemed to be equal to employment relationships has/have to have expired not more than three months before the date of the Government-introduced state of emergency or lockdown. The amount of the allowance has been increased to €211.86 per month. The duration of payment is equal to the duration of the lockdown or emergency situation plus one extra month. The main caveats are the temporary nature of the introduced mechanism and its low amount.

Moreover, a flat-rate benefit for SE who have paid social insurance contributions for at least three months during the last 12 months prior to the introduction of the emergency measures was introduced in 16 March 2020. This benefit is not linked to the contributory unemployment benefit, nor to the temporary jobseeker's allowance. The benefit for the SE was paid irrespective of whether or not self-employment activities were restricted due to the lockdown and irrespective of any change in income from self-employment. It was not paid if a SE person also received employment-related income exceeding one MMW. The benefit is payable during the period of lockdown and can be combined with contributory

unemployment benefits, if the SE is entitled to them. Benefits could be combined for those who combined self-employment with employment (hired work). After the first lockdown was lifted, the benefit was paid for two extra months thereafter. From 2021, the payment will continue until one month after the end of the emergency situation or lockdown. The amount of the flat-rate benefit was €257 per month in 2020 and €260 as of January 2021.

## 1.2 Sick pay and sickness benefits<sup>5</sup>

### 1.2.1 Access of NSW and SE to the general sickness benefit scheme

A sickness benefit (*ligos išmoka*) is a contributory benefit granted pursuant to the Law on Sickness and Maternity Social Insurance and available to people with statutory social insurance coverage. Employed persons receiving remuneration for work from employers, including NSW, are eligible for sickness benefits. All categories of the SE, with the exception of persons engaged in individual activities under a business certificate, have been covered by the sickness insurance since 1 January 2017. As for the contributory history required to access the scheme, the statutory social insurance coverage period must be at least three months during the last year or at least six months during the last two years. The employer pays the recipient's compensated wage for the first two days; from the third day, sickness benefits are paid by the National Social Insurance Fund (Sodra).

### 1.2.2 Measures taken during the pandemic

One of the main health-related measures targeted at the SE was a possibility to defer health insurance contributions from the start of the state of emergency on 26 February 2020 until its end. The deferred contributions must be paid within a period of two years from the end of the emergency situation. If the contributions are not paid within the set timeframe, but the self-employed person received healthcare services during the period at issue (except for emergency services), they will have to pay the expenses of the Compulsory Health Insurance Fund.

Moreover, people with chronic diseases (including those not infected with Covid-19) can apply for sickness benefits during the state of emergency and lockdown if they are not on furlough and cannot work remotely. The scheme covers all types of work contracts and the SE. The latter arrangement is aimed at protecting this vulnerable group from Covid-19 infection. Persons with chronic diseases are entitled to the sickness benefit at 62.06% of their gross wage during the state of emergency and lockdown. It is paid for up to 60 days and can be extended for the full period of the state of emergency and lockdown.

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5. Sick pay refers to the continued, time limited, payment of (part of) the worker's wage by the employer during the period of sickness. Sickness benefits are provided by the social protection system and are paid as a fixed rate of previous earnings, or a flat-rate amount.

Finally, sickness social insurance benefits have been increased for employees who become infected with Covid-19 in the performance of their duties, i.e. doctors, officials, or other employees (pharmacists, cashiers, social workers, and the like). They are offered a maximum sickness benefit of 100% of their net insured income (77.58% of their gross insured income instead of 62.06%). This measure was introduced in March 2020, but is also applied to those who became infected before the amendment to the law came into force. The measure is not targeted at NSW or the SE.

### 1.3 Special 'pandemic' leave

Working parents with children of up to 12 years of age who were not able to work due to school or childcare facility closures during lockdowns, as well as other workers who provided care for disabled or elderly family members, were entitled to paid sickness leave (*ligos išmoka*) in 2020. This measure was adjusted in September 2020 to cover the period of compulsory self-isolation of up to 14 days for school children in up to the fourth grade, or children with a disability up to 21 years of age, and to cover the period of school or childcare facility closures due to Covid-19 restrictions. In 2021, the latter measure was further extended to cover childcare periods of 14 additional days for school children in up to the fourth grade during the lockdown, even if childcare facilities are not closed. It applies to employees on any type of work contract, including NSW, and to the SE (with the exception of those engaged in individual activities under a business certificate; they are not covered by the general sickness benefit scheme [see Section 1.2] and those whose jobs allow them to work remotely).

Payments for childcare due to school and childcare facility closures were available to parents from the beginning of lockdown on 16 March 2020 until its end on 16 June 2020. The measure was extended in September 2020 and continued in 2021 (during the state of emergency and lockdown). Working parents who were at home due to school or childcare facility closures during lockdown, as well as other workers providing care for disabled or elderly people, are entitled to paid leave of up to 60 days paid at 65.9% of their gross insured income, until the end of the state of emergency.

The ordinary contributory parental leave (sickness benefit) for nursing a sick child (only under 14 years old) is granted for no longer than 14 calendar days. Thus 'special corona leave' is more generous in terms of length. Other conditions, such as the required period of contributions and the amount of the benefit, are identical.

## 2. Potential effect of the measures on NSW and SE

In 2019, there were 347,300 SE in the country (23.6% of the total labour force) and 98% of them were not covered by unemployment social insurance.<sup>6</sup> More than 40% of SE have another job, i.e. they are employees working under contracts and as such are covered by all types of social insurance, including unemployment benefits.

All groups of the SE are covered for sickness benefits with the exception of those who work on the basis of business certificates – they do not pay sickness social insurance contributions. The number of those working with business certificates was 98,300 (28% of all SE) in 2019. As stated by the State Social Insurance Fund Board under the Ministry of Social Security and Labour, 37% of those with business certificates are not engaged in any other economic activity (do not have any employment contracts). Hence, they are not covered by sickness insurance. There is a possibility for the SE to opt into the social insurance scheme, but some conditions of the voluntary schemes are not favourable to the self-employed, in terms of the ratio of benefits to contributions, and therefore they choose not to opt in. While there are some statistics on the number of beneficiaries of the special ‘pandemic’ leave (sickness benefits),<sup>7</sup> it is not known what fraction of beneficiaries belong to the group of NSW or SE. Hence while both NSW and SE (with the exception of those who work on the basis of business certificates and those whose jobs allow them to work remotely) are covered by sickness insurance, their take-up of the special sickness benefits available during the pandemic is not known.

In Lithuania, the most important lesson learnt from the Covid-19 crisis is the lack of unemployment social security guarantees for the SE: the universal benefits for the SE and the jobseeker’s allowance were only temporary measures during the pandemic. The jobseeker’s allowance sparked heated debates in Lithuania. The continuous increase in the number of registered unemployed and the high unemployment rate during the pandemic in 2020 attracted a lot of attention. However, there is little evidence that the instrument has caused a substantial decrease in employment and/or an increase in unemployment (Navicke *et al.* 2020).

The universal benefit for the SE was paid to a large proportion of applicants: during the first lockdown, there were 100,279 SE applicants between March and August 2020, with an average 87,380 recipients per month (i.e. 87%). Around 85% of all applicants received the benefit during the second lockdown (MoSSL 2021b).<sup>8</sup> The average number of recipients was 73,204 per month from December 2020 to May 2021 (about 20% of all registered SE, i.e. those not receiving employment-

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6. Data on the SE are from the State Tax Inspectorate under the Ministry of Finance, and information about insured persons is from the State Social Insurance Fund Board, under the Ministry of Social Security and Labour (the data were obtained on 25 March 2021).

7. There were two major periods when the number of sickness benefit recipients related to Covid-19 increased, i.e. by an average of 37,440 recipients between April and June 2020 and 11,590 recipients between January and April 2021 (MoSSL 2021b).

8. According to the information available on 25 January 2021; information on applicants is not published thereafter.

related income exceeding one MMW) (MoSSL 2021b). The high coverage was due to the fact that the benefit for the SE was paid irrespective of whether or not self-employment activities were restricted due to the lockdown and irrespective of any change in income from self-employment.

The jobseeker's allowance covered all people registered as unemployed in 2020. There were 335,563 recipients (out of 358,317 applicants, i.e. 94%) from 12 June 2020 to 24 January 2021; 221,932 recipients (out of 258,530 registered unemployed, i.e. 86%) on average per month in the second half of 2020. The number of recipients eligible for the allowance dropped to around 42,000 recipients out of 282,000 registered unemployed (i.e. to 15%) in January 2021 as a result of introducing stricter eligibility conditions (MoSSL 2021b). Hence, SE who discontinue their activities cannot apply for the jobseeker's allowance in 2021; NSW can still apply if their employment contract expired not more than three months before the date of the Government-introduced state of emergency or lockdown.

While both the benefit for the SE and the jobseeker's allowance have wide coverage,<sup>9</sup> their amounts are very low. The amount of the jobseeker's allowance is 45% of the net MMW and the benefit for the SE is 55% of the net MMW. Hence, the adequacy of both benefits is low.

Finally, the number of platform workers who work on the basis of business certificates is increasing (see Table 1). This increase may give rise to additional questions about how to protect this group. There is no research known to the authors of this chapter regarding the impact of the pandemic on platform workers in Lithuania. People working on the basis of business certificates are only included in the temporary flat-rate benefit scheme for SE during the pandemic. They are not covered by contributory unemployment or sickness benefits, the temporary jobseeker's allowance (in 2021), nor are they eligible for the special 'pandemic' leave.

Table 1 Platform workers in Lithuania

	2017	2018	2019	2020
Number of platform workers	8,456	15,398	21,380	27,354
Number of the SE working with business certificates	134,824	155,404	174,773	192,994
Platform workers compared to the total number of the SE working with business certificates, %	6	10	12	14

Source: MoSSL (2021 a)

9. Broad coverage only in 2020 for the jobseekers' allowance.

### 3. The role of national trade unions

There are three main national trade union organisations operating in Lithuania:

- the Lithuanian Trade Union Confederation (*Lietuvos profesinių sąjungų konfederacija*);
- the Lithuanian Labour Federation (*Lietuvos darbo federacija*);
- the Lithuanian Trade Union 'solidarumas' (*Lietuvos profesinė sąjunga 'solidarumas'*).

All three trade union organisations are represented in the national-level tripartite body, the Tripartite Council of the Republic of Lithuania (*Lietuvos Respublikos Trišalė taryba*). The Tripartite Council currently consists of five committees and commissions: the Wage Commission; the Labour Disputes Commission; the Bipartite Commission of Civil Servants; the Committee for Education; and the Committee for Culture (MoSSL 2021c).

An important development with regard to trade union representation in Lithuania was the adoption of the new Labour Code in 2017. According to the new Labour Code, trade unions no longer represent all employees, but only their members, with the aim of encouraging trade union membership and representativeness. Although the coverage of employees by collective agreements has increased to around 15%, most collective agreements are signed in the public sector (European Commission 2020). SE workers are not covered by trade unions. Moreover, they are sometimes viewed as a threat to trade union members due to the preferential tax treatment of the self-employed. Overall, both trade unions and employer organisations have expressed their reservations concerning the Labour Code reform. Still, there is a lack of official or academic evaluations of the impact of the reform on social dialogue in Lithuania.

Social partners (SPs) were consulted on an ad-hoc basis during the introduction of the Covid-19-related social protection measures discussed in this chapter; however, no tripartite meetings were held (Eurofound 2020a; Eurofound 2021). Cooperation with social partners and NGOs was more active at the beginning of the pandemic and was fostered by petitions and requests from SPs, NGOs and academia (NVO 2020). On 24 April 2020, the Advisory Group for Post-Lockdown Social Issues, under the Ministry of Social Security and Labour, started its work in Lithuania, discussing measures to reduce the social impact of the pandemic during the post-lockdown period in Lithuania. The group is, however, no longer functioning in 2021. The SPs were also invited to participate in the group. They welcomed measures planned in Lithuania for the post-lockdown period (including the temporary jobseekers' allowance) and appreciated that their proposals had

been taken into account (Eurofound 2020b).<sup>10</sup> The main criticism was of the low levels of the jobseeker's allowance and the benefits for the SE. SPs have repeatedly expressed the view that measures should not be discontinued at the end of the lockdown and should remain for at least three months thereafter (Eurofound 2020c).

Following the change of Government, the Advisory Board of Independent Experts was set up and has been holding meetings on a regular basis since December 2020 (koronastop.lrv.lt 2021). The Board is mandated to consider proposals for the management of Covid-19 cases and submit proposals to the Government for the application and implementation of prevention, diagnosis, treatment and other epidemic management measures related to Covid-19. The Board includes representatives of the Lithuanian Trade Union Confederation (LTUC) – the largest trade union umbrella organization. The Board is not, however, really focused on managing the social consequences of the pandemic. Other formats for cooperation include ad-hoc meetings and public online consultations. The latter, however, are criticised for being more of a public relations' measure than an effective mode of cooperation, with little action taken on proposals and feedback provided during the consultations.<sup>11</sup>

According to academic evaluations, the lack of cooperation and stakeholder involvement was not resolved during the Covid-19 pandemic (Bortkevičiūtė *et al.* 2020). There was still little coordination and partnership with social partners, municipalities and NGOs, leading to a less effective allocation of resources and decision making (*ibid.*). SPs and representatives of NGOs express special concerns over the lack of discussions and cooperation during the adoption of the national economic recovery plan submitted to the Recovery and Resilience Facility (RRF). These concerns were officially expressed by the Board of NGOs to the Ministry of Social Security and Labour.

The leaders of the LTUC, the Lithuanian Trade Union 'solidarumas' and NGOs (National Poverty Reduction Network - NSMOT) consider income maintenance benefits and wage subsidies during downtime to be very good solutions. The latter helped to keep employees in the workplace. The main criticism concerns the low level of the benefits, especially the benefit for the SE. According to the LTUC, this benefit could have been differentiated, with higher amounts paid to those who had contributed more through taxes and social insurance. The reduced coverage of the jobseeker's allowance is a matter of concern for the NSMOT.

The leaders of the trade unions argue that income tax and social security contributions for the SE should be differentiated. Some of the SE receive very low

<sup>10</sup> According to Kristina Krupavičienė, the leader of the Lithuanian trade union 'solidarity', the Government invited trade union representatives to discuss social security measures designed to overcome the consequences of the pandemic in the spring of 2020. The Union filed a demand to the Ministry of Social Security and Labour, calling on it to respond to the pandemic and protect workers. Nobody, it said, should be left without income, even if they do not have a sufficient insurance record for unemployment benefits.

<sup>11</sup> Here and elsewhere: based on the interviews conducted with representatives of the mentioned organizations.

or occasional income. For example, the members of the trade union 'solidarumas' include tour guides and translators. Their income is non-permanent, unstable. On the other hand, there are SE notaries and/or lawyers with very high incomes. These two groups must pay the same income tax and rate of contributions, yet the burden that this represents for the two groups is very different; some of the SE have more difficulties paying social security contributions than employees. However, the problem is that lower contributions may reduce the level of social security.

#### **4. Future perspectives**

The 2019 Council Recommendation was not publicly discussed in Lithuania, nor was it discussed in the Parliamentary committees for Social Affairs or European Affairs. However, on 15 May 2021, the Ministry of Social Security and Labour prepared a National Plan as part of the monitoring of the 2019 Council Recommendation (MoSSL 2021a).

The Ministry sees financing as the main challenge in expanding the access of SE to social security: 'It should be defined how self-employed persons should contribute and finance their social security rights, for example to what extent the state contributes and what contributions are paid by the self-employed persons themselves' (MoSSL 2021a). The Ministry is apparently, although not explicitly, referring to the very low income of some SE for whom social insurance contributions are a heavy burden. Moreover, one of the main conditions for assessing the risk of unemployment is its involuntary character. In cases of self-employment, it is difficult to assess to what extent discontinuation of economic activity is voluntary (ibid.).

Discussions in the Tripartite Council and in the media about the SE and NSW have been on-going for many years. The preferential tax treatment, with regard to both income tax and social insurance contributions, of some types of SE has been generally criticised. Critics point out that the SE are privileged over employees. SE, even those earning high incomes, pay relatively less income tax than employees.

Non-payment of social security contributions shows that the SE are not covered by all social schemes and enjoy a lower level of social security. SE representatives reply, in response to criticism, that their incomes are often low and social security contributions are an unbearable burden. It is also argued that they take on more risk by creating jobs for themselves. The Government usually argues that it is difficult to administer the social insurance of the SE because of tax evasion and unstable incomes. It is sometimes difficult to identify social risks, such as involuntary unemployment.

Still, in 2021, the Ministry of Finance launched consultations to review forms of tax relief, aiming to consolidate additional resources in the state budget and ensure a more equitable tax system (MoF 2021c). The results of the consultations are to be summarised by October 2021. Cancellation of numerous forms of tax

relief could strengthen the tax base so that funding for social protection benefits and services could be increased. This, however, may result in the abandonment of some of the preferential tax treatments for the SE.

The newly introduced Covid-19 measures are gradually being phased out, with most of the measures foreseen only for the period of lockdown and 1-2 months thereafter. The measures should therefore come to an end by the autumn of 2021.

## Conclusions

Lithuania can be characterised as having broad and expanding social insurance coverage of employees, NSW and the SE. The main gaps include unemployment social insurance for the SE and social protection of persons working on civil contracts. Moreover, the contribution record of at least 12 months required in order to receive unemployment insurance benefits is relatively long and can be an obstacle to newcomers to the labour market.

The main income support measures during the pandemic included regular social insurance schemes (unemployment benefits, sickness benefits) as well as newly introduced schemes (jobseeker's allowance, flat-rate benefit for the SE and wage subsidies). With regard to the new schemes, both the jobseeker's allowance and the benefit for the SE were criticised for being too low, although broad in their coverage. Stricter eligibility conditions for the jobseeker's allowance have been introduced from the beginning of 2021, and for the benefits for the SE from July 2021. Representatives of trade unions and NGOs support the newly introduced Covid-19 benefits, but recognise that their level is not adequate. The new Covid-19 measures are temporary and should be discontinued by the autumn of 2021.

The social partners were consulted on an-ad hoc basis during the introduction of the Covid-19-related social protection measures discussed in this chapter. In 2020, a more structured discussion of measures to cushion the social consequences of the pandemic included debate in the Advisory Group for Post-Quarantine Social Issues under the Ministry of Social Security and Labour. The Advisory Board of Independent Experts, which includes representatives of the Lithuanian Trade Union Confederation (LTUC), has been holding meetings on a regular basis since December 2020 ([koronastop.lrv.lt](http://koronastop.lrv.lt) 2021). The Board is, however, focused on epidemic management measures, rather than managing the social consequences of the pandemic. Other formats of cooperation, i.e. ad-hoc meetings and public online consultations, are criticised for being more of a public relations measure than an effective mode of cooperation. The lack of cooperation and stakeholder involvement was not resolved during the Covid-19 pandemic.

The 2019 Council Recommendation was not publicly discussed in Lithuania; nor was it discussed in the Parliamentary committees for Social Affairs or European Affairs. However, on 15 May 2021, the Ministry of Social Security and Labour prepared a National Plan as part of the monitoring of the 2019 Council Recommendation (MoSSL 2021a). The main challenges include financing the

access of SE to unemployment social insurance and assessing to what extent discontinuation of economic activity by the SE is involuntary.

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# Country chapter Portugal

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## Introduction

After benefiting from a comparatively better scenario during the first wave of the pandemic in spring and summer 2020, Portugal was hit severely by Covid-19 and its impacts in late 2020 and early 2021. Two total lockdown periods were imposed, the first between mid-March and early May 2020 and the second between mid-January and early May 2021.

The pandemic brought additional challenges to all workers and notably to non-standard workers (NSW) and the self-employed (SE).<sup>1</sup> As a means of counteracting negative effects, several measures related to job protection and social protection were put in place from March 2020. The job protection measures involved support to employers, employees and the self-employed. The social protection measures included actions related to minimum income schemes and other forms of social assistance, to unemployment benefits, to health insurance, to housing support and to leave for parents whose children were unable to attend school or a pre-school service due to Covid-19. This chapter focuses more specifically on unemployment benefits, sickness benefits and parental leave, as well as on the access of NSW and the self-employed to these schemes.

In Portugal, trade unions were not closely involved in the designing of measures during the pandemic. Tripartite meetings of the Standing Committee for Social Dialogue (CPCS) to inform and consult with the social partners are held regularly, and trade unions actively express their views on necessary adjustments. However, they have not been involved in the drafting of measures and no formal agreements were reached about their design.

Social partners also actively engaged in the discussion of the ‘Green Paper on the future of work’.<sup>2</sup> This document specifically mentions and quotes from the Council Recommendation on access to social protection for workers and the

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1. For the purposes of this chapter, we use the following definitions of different types of employment (ILO 2016): Standard employees i.e. full-time open-ended contracts; non-standard workers i.e. contractual employment outside of full-time open-ended contracts (e.g. part-time, temporary contracts, zero-hour, seasonal workers etc.); self-employment, i.e. people working for their own account.
  2. The Portuguese government presented the ‘Green Paper on the future of work’, to the social partners on 31 March 2021 and submitted it for public discussion in May 2021. The purpose of the initiative is to develop an agenda for the promotion of decent work and inclusive social protection and to highlight a set of core points for social dialogue (see Section 4).

self-employed 2019 (hereafter ‘the Council Recommendation’). However, public debate has been focused on the wider scope of the Green Paper, rather than on the Recommendation specifically. In addition, it should be mentioned that, at the time of writing, the plan pursuant to the text of the Recommendation has still not been submitted by Portugal.

The chapter is structured in the following way: Section 1 describes the schemes under scrutiny i.e. unemployment benefits, sickness benefits and parental leave and the access of NSW and the self-employed to these schemes, as well as the specific measures put forward in these three areas to tackle the consequences of the Covid-19 pandemic. Section 2 then analyses the potential effect of these measures on NSW and the self-employed. Section 3 addresses the role of national trade unions, their relations with the government and the employers and their involvement in the decision-making process in general, and in the design and/or implementation of the measures taken in response to the pandemic. The section ends with reflections on the role of the trade unions in protecting NSW and the self-employed in the light of the process, currently underway, of preparation of a labour legal framework for platform workers within the scope of the wider ‘Green Paper on the future of work’. Future prospects in this area are described in Section 4, and Section 5 presents the main conclusions.

## **1. Description of measures**

### **1.1 Unemployment benefits**

Unemployment insurance in Portugal consists of a compulsory social insurance scheme, financed by contributions from employers and employees, with earnings-related benefits (*Subsidio de desemprego*). In order to access the scheme, applicants must have completed a qualifying period of at least 360 days of employed work and have made contribution payments in the 24 months preceding commencement of unemployment. This applies both to (former) employees and self-employed. Overall, unemployment insurance corresponds to 65% of the reference wage.

Most NSW and most types of former self-employed have access to unemployment insurance. These include sole proprietors (i.e. individual employers), members of statutory bodies (e.g. Boards of administrators, Boards of trustees, etc.) of foundations, associations or cooperatives and those considered to be economically dependent self-employed, i.e. self-employed with at least 50% of their income originating from a sole entity. Thus, the former self-employed not included in the categories above, notably those without 50% of income originating from a sole entity, are excluded from access.

The only categories explicitly excluded from the unemployment insurance scheme are at-home workers and workers registered in the voluntary insurance scheme. This may include e.g. mariners and watchmen working in foreign vessels, high performance sportspeople, research fellows, volunteer firefighters and principal informal carers.

Unemployment assistance consists of a mixed system financed by contributions from employers and employees and taxes, with means-tested benefits which use the social support index (*indexante dos apoios sociais – IAS*) as a reference (*Subsídio social de desemprego*). In order to access the scheme, applicants must have completed a qualifying period of at least 120 days of employed work and have made contribution payments in the 12 months prior to unemployment, in cases where unemployment resulted from the termination of a temporary contract or from the employer's decision to terminate the contract during the trial period; and 180 days in all other cases. Applicants must also comply with means-testing conditions.

In the last few years, changes have been made to unemployment benefits, affecting the self-employed. As from mid-2018, the required period of time with registered earnings for social security purposes was halved from 720 to 360 days in the previous 24 months. Another change regards the definition of the self-employed considered to be economically dependent. As from 2019, this definition includes the self-employed performing 50% of their yearly activity for the same entity. Previously it was 80%. Additionally, the decrease in turnover necessary for eligibility of self-employed workers who earn their income through a registered business of their own or possess an individual commercial establishment was reduced from 60% to 40%.

In response to the pandemic, in March 2020, all unemployment benefits ending after 12 March 2020 were automatically continued (*Prorrogação automática de subsídios de desemprego*). The measure was first in place between 12 March 2020 and June 2020 and then extended up to December 2020, but only regarding unemployment assistance. A new automatic continuation was put in place on 1 January 2021 but only regarding unemployment insurance, unemployment assistance and benefits for termination of activity ending in 2021, which are to be automatically continued for a period of six months. The measure may therefore continue to have an effect till June 2022 when applied to benefits ending in December 2021.

Reduced insurance periods for access to unemployment insurance and to the benefit for termination of activity applied between July and December 2020; this measure applied to unemployment situations registered between 19 March and 30 June 2020 (*Subsídio de desemprego e subsídio por cessação de atividade - redução dos prazos de garantia*). The employment requirement period was halved: from 360 days to 180 days of registered work, with the corresponding pay statements, in the 24 months prior to unemployment.

Under this measure, moreover, as from 1 January 2021, these unemployed persons automatically transited to the unemployment assistance without the need to meet means-testing conditions. Economically dependent self-employed were entitled to the benefit for termination of activity if they could demonstrate at least 180 days of activity (rather than the usual minimum of 360 days), with the corresponding pay statements, in the 24 months prior to involuntary termination of the service agreement, and as long as they were considered economically dependent from that entity in 2019. Self-employed with entrepreneurial activity and members of statutory bodies who have become unemployed involuntarily due to termination

of activity were entitled to the benefit for termination of activity if they had a work record of at least 360 days (rather than the usual minimum of 720 days), with the corresponding pay statements, in the 48 months prior to termination of activity.

Additionally, between May and 30 June 2020, the minimum employment record needed for access to unemployment assistance was reduced from 120 to 60 days in the 12 months prior to unemployment, in cases where unemployment resulted from the termination of a temporary contract or from the employer's decision to terminate the contract during the trial period; and from 180 to 90 days in the 12 months prior to unemployment in all other cases. However, in both cases, the duration of the benefit was limited to 60 and 90 days, respectively (*Redução do número de dias de trabalho por conta de outrem, com o correspondente registo de remunerações, necessário para o acesso ao subsídio social de desemprego*).

## 1.2 Sick pay and sickness benefits

There is no statutory sick pay scheme in Portugal. In order to access the sickness benefit scheme (*Subsídio por doença*), applicants must have worked and have a corresponding record of social security contributions for the six months previous to the claim. This applies to all workers. However, only employees have also to comply with the obligation to have had 12 days of paid work in the first four of the six months immediately preceding the incapacity. The waiting period for granting sickness benefits is 31 days for people covered by the voluntary insurance scheme. This was also the waiting period applicable to the self-employed, but this changed in mid-2018 and it is currently 11 days. For employees it is 3 days. In case of hospitalisation, out-patient surgery, sickness starting during the period of receipt of maternity benefits and lasting beyond that period and in cases of tuberculosis the compensation is paid during the entire period of incapacity (this right is granted to all categories of workers).

It should be mentioned that the access rules specifically mention entitlement of the self-employed and other NSW, including some covered by the voluntary insurance scheme – mariners and watchmen working in vessels of foreign companies and research fellows, as well as at-home workers. Conversely, the rules explicitly exclude workers with labour contracts of extremely short duration, i.e. contracts lasting up to 15 days and only admissible for purposes of seasonal agricultural activity or tourist events.

As a response to the pandemic, specific rules applicable to the sickness benefit were put in place in March 2020. They were still in place on 1 June 2021. These apply in case of Covid-19 infection (*Subsídio por doença por Covid-19*) or in cases of precautionary self-isolation due to risk of Covid-19 infection (*Subsídio por doença por isolamento profilático*). A precautionary self-isolation order by health authorities is required, issued after a case-by-case assessment of the person's risk situation.

Under these rules, the benefit corresponds to 100% of the net wage, rather than ranging between 55% (illness lasting up to 30 days) and 75% (illness lasting for

over one year) of the reference pay, as in the case of the ‘regular’ sickness benefit. Additionally, there is no waiting period as for the ‘regular’ sickness benefit, i.e. the benefit is paid from day 1. The maximum duration of the Covid-19 sickness benefit is 28 days. The sickness benefit for reasons of preventive isolation has a maximum duration of 14 days. If the recipient uses the latter immediately before the former, the number of days used should be deducted from the maximum duration of the Covid-19 sickness benefit.

In July 2020, Covid-19 was officially recognised as an occupational disease for all workers in the healthcare sector, both employees (all work contracts) and self-employed workers. The amount and maximum duration of the Covid-19 sickness benefit are therefore matched to those applicable in cases of occupational disease (*Subsídio por doença por Covid-19 de trabalhadores do setor da saúde*). Thus, the amount of the benefit corresponds to 100% of the base wage, rather than 55% during the first 30 days and 60% between days 31 and 90. The maximum duration of the benefit is 18 months rather than 36 months. Additionally, as the benefit is equated to the sickness benefit due to hospitalisation, the usual waiting period is not applied and the benefit is paid from day one.

### 1.3 Special ‘pandemic’ leave

The ‘Extraordinary support to families’ measure (*Apoio excepcional à família*) was put in place in March 2020 and was still in effect on 1 June 2021. The measure allows justified absence from work for parents of children aged less than 12 (no age limit in case of disability or chronic illness) whose school has been closed by decision of the Government or of the health authority. An allowance is also granted, compensating the worker for the loss of income from work. The support cannot be granted to both parents simultaneously. The legislation mentions that the leave shall last for the number of days actually needed.

All work statuses, including NSW and the self-employed, are included in the scheme. Initially, teleworkers were not eligible. As from February 2021, teleworkers are eligible if they chose to stop working in order to support their families, and as long as they are in one of the following types of household: (i) lone parent household, (ii) household with at least one child attending early childhood education and care or primary education, (iii) household with at least one person of any age with disability and proven incapacity of at least 60%.

The monthly benefit corresponds to 1/3 of the base wage for the self-employed and 2/3 of the base wage in the case of employees, including NSW and domestic workers. Social security pays 1/3 and the employers pay 1/3 for their employees. The amount ranges from a minimum of €438.81 (i.e. 1 IAS in 2020, in the case of the self-employed) or €635 (i.e. the national minimum wage in 2020, in the case of employees) to a maximum of €1,097.03 (i.e. 2.5 times the IAS, in the case of the self-employed) or €1,905 (i.e. three times the minimum wage, in the case of employees). The benefit is paid on the basis of the actual number of days of absence to work.

Additionally, the ‘Assistance to children or grandchildren for reasons of precautionary self-isolation’ (*Assistência a filho ou neto por isolamento profilático*) gives parents or grandparents of children aged less than 12 (no age limit in case of disability or chronic illness) who need to be in precautionary self-isolation, the right to be absent from work for a maximum of 14 days and to receive the related benefit to cover loss of remuneration resulting from absence from work. The benefit corresponds to 100% of the net wage, in the case of parents, or 65% in the case of grandparents. All work contracts are included; the self-employed are excluded. This measure was put in place in March 2020 and was still in effect on 1 June 2021.

Article 49 of the Portuguese labour code establishes the right of workers to be off work up to 30 days per year (or during the whole period in case of hospitalisation) in order to provide urgent and indispensable assistance to children aged less than 12 (with no age limit in the case of a child with a disability or impairment) in the case of illness or accident. For children aged 12 or more, the number of days is halved to 15. For children aged 18 or more, the right remains in force as long as they share the same household. The benefit corresponds to 100% of the net wage.

## **2. Potential effect of these measures on non-standard workers and the self-employed**

Currently few studies and/or data can be found to enable specific assessments of the potential effect of the measures under scrutiny on non-standard workers and the self-employed. Yet, regarding unemployment benefits, it may be argued that completing the qualifying period of at least 360 days may be harder for NSW. In this sense, we can assume that the relaxation of eligibility conditions for unemployment benefits has eased access of these workers to social protection.

As for sickness benefits, the changes introduced benefit all workers but especially the self-employed and those covered by the voluntary insurance scheme. For these workers, the Covid-19 sickness benefit is paid from day 1 rather than from day 11 or 31, respectively.

As mentioned above, all work statuses, including NSW, as well as the self-employed are included in the ‘Extraordinary support to families’ measure, linked to the closure of childcare facilities and schools. However, as emphasised by a recent paper, the scheme for self-employed workers is ‘significantly less generous’ (Moreira *et al.* 2020: 9). As aforementioned, the monthly benefit corresponds to 1/3 of the base wage for the self-employed and 2/3 of the base wage in the case of employees. Likewise, the minimum and maximum amounts of the benefit are lower for the self-employed, calculated on the basis of the social support index, compared with those for employees, calculated on the basis of the minimum wage.

Additionally, in May 2021, the Portuguese Ombudsperson’s office sent a letter to the State Secretary of Social Security, in which it flags that the Institute for Social Security was rejecting applications from self-employed workers because it

considered that, according to the Law, ‘the awarding of the ‘assistance to children or grandchildren for reasons of precautionary self-isolation’ to the self-employed is not envisaged’ (Provedor de Justiça 2021a: 4).

The latest report from the Ombudsperson’s office regarding the year 2020 highlights that lawyers and solicitors were excluded from extraordinary family benefits targeted at self-employed workers. These workers are covered, on a mandatory basis, by the specific lawyers’ and solicitors’ social protection scheme (CPAS). However, the CPAS rules did not include any type of equivalent support. The Ombudsperson’s Office considered the complaints it received from these workers, ‘who are true self-employed workers’, to be well-founded and recommended that they be integrated as potential recipients, particularly because the benefits were financed by State Budget funds rather than by Social Security funds (Provedor de Justiça 2021b: 90). However, it emphasises that, although the Portuguese parliament supported the Ombudsperson’s Office and approved an extraordinary measure targeted at these workers, ‘by the time the report was elaborated, nearly one year after the outbreak of the pandemic crisis, lawyers and solicitors still had no access to support’ (Provedor de Justiça 2021b: 89).

More generally, Moreira *et al.* discussed the significance of the social policy measures implemented in Southern European countries— Greece, Italy, Portugal and Spain— in response to the first wave of Covid-19 (1 March to 30 June 2020) and concluded that: ‘In combination with the expansion of the coverage and duration of unemployment benefit insurance support schemes and the extended provisions for the self-employed and the unemployed, it could be argued that Southern European countries wanted to move away from austerity-driven employment reforms, at least during the early months of the pandemic’ (Moreira *et al.* 2020: 15). However, ‘admittedly, the level of support for self-employed workers was well below that offered to salaried employees. (...) In Portugal, the entitlement conditions imposed on self-employed workers were much stricter than those applied to employees covered by the furlough scheme. Moreover, the level of payments was much lower than in the Simplified Furlough scheme’ (Moreira *et al.* 2020: 15).

According to the Portuguese government, by March 2021 approximately half of all self-employed workers (187,000 people) had received support from at least one Covid-19 related measure aimed at compensating loss of income, compared with around 25% of employees. By that time, approximately 30% of all self-employed (116,000 people) were still supported. In February, the mean value of the allowance (paid on a monthly basis) was €320. Three categories of self-employed accounted for nearly half of the recipients: 18% of the self-employed receiving support worked in personal services (e.g. hairdressers), 15% were wholesalers/vendors and 14% worked in tourism. On average, the benefit was paid 10 days after the claim was made.<sup>3</sup>

3. ‘Governo diz que um em cada dois trabalhadores independentes recebeu apoio’, Eco.Sapo 02/04/2021, available at: <https://eco.sapo.pt/2021/04/02/governo-diz-que-um-em-cada-dois-trabalhadores-independentes-recebeu-apoio/>

Focusing on the support provided between March and September 2020, a study by Eurofound highlights that a total of 163,000 self-employed (i.e. around 44% of all self-employed) had already been helped by Covid-19 income support schemes for self-employed people. However, additionally it notes that the number of applications had been as high as 209,000, which means that 22% of all applications had been declined. According to the same study, in Portugal the take-up rate for income support schemes for self-employed people, as a share of the support paid out, stood at approximately 25% (Eurofound 2021). In addition, it highlights that Portugal 'set either maximum or minimum income thresholds (or both) for self-employed activity, thus excluding those for whom income from self-employed activity was either relatively marginal or, indeed, significant prior to the pandemic' (Eurofound 2021: 50).

Overall, as regards the situation in September 2020 in terms of income replacement schemes for self-employed people, Portugal is tagged as being medium access but with a flat-rate replacement payment at or below the minimum wage or social assistance level (Eurofound 2021: 49). This has been one criticism from various stakeholders including trade unionists, who have emphasised that the financial support provided under these measures generally does not lift people above the poverty threshold.

As regards the situation of non-standard contracts, the same Eurofound report emphasises that Portugal was one of the countries temporarily increasing 'access to groups of workers not previously covered (for example, apprentices and workers on non-standard contracts, such as part-time and fixed-term contracts, and agency workers or workers in domestic settings)' (Eurofound 2021: 21). The country is mentioned as one of the few countries 'that explicitly included some casual workers among those eligible for relevant allowances through their employers. This mainly pertained to specific groups of seasonal workers' (Eurofound 2021: 25).

Moreira *et al.* concluded that important efforts were made to provide additional temporary benefits to compensate self-employed and NSW for the loss of earnings (Moreira *et al.* 2020). 'Governments in Southern Europe also introduced lump sum payments and other temporary benefits to compensate self-employed and other non-standard workers for the temporary loss of earnings. The exception was Portugal, which introduced a temporary monthly payment, subject to conditions' (Moreira *et al.* 2020: 15).

### **3. The role of national trade unions**

There are two trade union confederations in Portugal – the left-wing General Confederation of Portuguese Workers (CGTP-IN) and the centre General Union of Workers (UGT). Between two thirds and three quarters of unionised workers belong to the former confederation, and the remainder to the latter (Perista *et al.* 2018). Together, they represent approximately 15% of employees. Involvement in the decision-making process in general is both bipartite, through bilateral meetings with the Government, and tripartite, notably through the Economic and

Social Council, including the Standing Committee for Social Dialogue (CPCS). The Economic and Social Council plenary includes not only representatives from the government and from trade union and employer confederations, but also representatives from local government and the autonomous regions, from education and equality institutions and from various civil society organisations. Additionally, the Standing Committee for Social Dialogue meets on a regular basis.

The aforementioned study by Eurofound categorises 26 EU countries<sup>4</sup> as regards the level of involvement of social partners in employment protection measures, in September 2020. The six categories range from ‘no involvement’ to ‘involvement in designing/amending measures’. Portugal is the only country included in the category ‘involvement in consultation and evaluation through tripartite bodies’. According to the Eurofound analysis, 12 Member States registered a stronger level of involvement than Portugal, while in 13 others involvement was deemed to be weaker than in Portugal (Eurofound 2021).

The study notes that the government has held tripartite meetings of the CPCS to inform and consult regularly with the social partners. It stresses that the social partners were not involved in the drafting of the initial measures and no formal agreements were reached about their design, but that they were actively engaged in expressing their views on necessary adjustments. In addition, it emphasises that the employment protection measures implemented in March 2020, as well as subsequent measures, were subject to regular evaluation by the CPCS, further noting that ‘social dialogue improved with the preparation of the recovery measures, which were presented to the social partners at the beginning of June 2020’ (Eurofound 2021: 67).

It should be mentioned that in mid-May 2020, the government and the social partners signed a Declaration of Commitment expressing their joint commitment to tackle the consequences of the pandemic crisis and to protect employment.<sup>5</sup> The document emphasises the commitment to value the role of social dialogue and of social partners in the elaboration, monitoring and evaluation of public policies.

Both trade unions’ and employers’ confederations are represented in the CPCS, which is the privileged forum for interaction between these organisations. They are mentioned as usually holding very different, even antagonistic, positions which hamper the possibility of other types of interaction (Perista and Perista 2019).

The involvement of trade unions in specific measures has been modest. According to Eurofound’s Covid-19 database, social partners were informed in the Standing Committee for Social Dialogue regarding the aforementioned measures on unemployment benefits and special ‘pandemic’ parental leave. And they were not involved in the changes to the sickness benefit.

4. The table does not include Luxembourg.

5. Available at: [https://www.ces.pt/storage/app/media/Declaracao%20de%20Compromisso\\_Assinada%20pelos%20Parceiros%20CPCS%2012.5.pdf](https://www.ces.pt/storage/app/media/Declaracao%20de%20Compromisso_Assinada%20pelos%20Parceiros%20CPCS%2012.5.pdf)

In any case, trade union confederations have the chance to raise points, and indeed they present position papers to be discussed in the social dialogue, stating their demands. These have included union requests concerning the strategies and measures taken to tackle the effects of the pandemic. As an example, the extension of the special ‘pandemic’ parental leave to teleworkers followed specific demands both from CGTP<sup>6</sup> and from UGT.<sup>7</sup> Other union demands, however, such as to increase the amount of that benefit for employees from 66% to 100%, have not been implemented.

Trade union confederations have criticised the way in which some measures were defined, since they are deemed not to protect some of the most vulnerable workers. The CGTP highlighted, for instance, that by disallowing collective redundancies and dismissal as a result of the dissolution of the job only, the regulations regarding job support measures paved the way for the dismissal of vulnerable non-standard workers.<sup>8</sup> The UGT considered it unacceptable that the benefits use 2020 social security contributions as a reference, since these are often lower due to the pandemic, a situation that disproportionately affects the self-employed.<sup>9</sup> Overall, trade unions seem to have been more active in protecting the self-employed considered to be economically dependent, i.e. self-employed people with at least 50% of their income originating from a sole entity.

More recently, the union organisations have been more vocal regarding the social protection and inclusion of platform workers, most of whom are deemed to be bogus self-employed workers. They argued in favour of a legal possibility to demonstrate the presence of a working relationship between digital platform companies and people working for them, as well as the need to provide platform workers with labour rights, a decent income and social protection.

These points seem to have been taken on board, at least partially, in the current preparation by the Portuguese government of a labour legal framework for platform workers (see next section). The objective of the framework is to provide these workers with basic rights, such as a minimum wage, regulated holidays and rest periods, as well as to widen social security coverage and to ensure their access to adequate social protection, notably in the event of sickness, parenthood or unemployment.

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6. ‘Teletrabalho e prestar assistência a filhos menores ou com deficiência’, CGTP 08/05/2020, available at: <http://www.cgtp.pt/informacao/comunicacao-sindical/14078-teletrabalho-e-prestar-assistencia-a-filhos-menores-ou-com-deficiencia>

7. ‘Covid-19. UGT exige apoio aos pais pago a 100% e alargado a quem está em teletrabalho’, Observador 01/02/2021, available at: <https://observador.pt/2021/02/01/covid-19-ugt-exige-apoio-aos-pais-pago-a-100-e-alargado-a-quem-esta-em-teletrabalho/>

8. ‘Medidas urgentes de apoio aos trabalhadores e famílias’, CGTP 24/02/2021, available at: <http://www.cgtp.pt/informacao/comunicacao-sindical/15602-medidas-urgentes-de-apoio-aos-trabalhadores-e-familias>

9. ‘Covid-19. UGT exige apoio aos pais pago a 100% e alargado a quem está em teletrabalho’, Observador 01/02/2021, available at: <https://observador.pt/2021/02/01/covid-19-ugt-exige-apoio-aos-pais-pago-a-100-e-alargado-a-quem-esta-em-teletrabalho/>

## 4. Future perspectives

Future perspectives regarding the situation and social protection of NSW and the self-employed are likely to be broadly determined by the ‘Green Paper on the future of work’, which the government presented to the social partners on 31 March 2021 and which was submitted to public discussion in May 2021.<sup>10</sup> The purpose of the Green Paper is to develop an agenda for the promotion of decent work and inclusive social protection, and to highlight a set of core points for social dialogue. These points include the need to extend collective bargaining to new categories of workers, including outsourced and platform workers, and to promote mechanisms to tackle the isolation and fragmentation that often characterise these new forms of work. The Green Paper provides a wider context to the aforementioned labour legal framework for platform workers.

The proposal regarding platform workers addresses concerns voiced by trade unions, such as the need for a legal possibility to demonstrate the presence of a working relationship between digital platform companies and people working for them, and the need to provide platform workers with labour rights, a decent income and social protection.

In any case, the CGTP-IN considered that the intentions set out in the Green Paper are insufficient to ensure decent work. In their view, it is not enough to recognise equal rights for platform workers. They argue that digital platform companies are in fact employers and should thus be responsible for contributing to the social security coverage of their workers. It also stressed that, whenever possible, collective labour regulations should be applied. As a specific example, they suggested that platform drivers should be included in the collective agreement related to transport of passengers.

Platform companies, on their side, have emphasised their willingness to dialogue and be part of the solution. They have voiced openness to improving work conditions and social protection, while highlighting that their workers tend to value flexibility and that this is deemed to contribute to a more dynamic economy and labour market.

The ‘Green Paper on the future of work’ specifically mentions and quotes from the EU Council of Ministers’ Recommendation of 8 November 2019 on Access to social protection for workers and the self-employed; it underlines the importance of the initiative and of ensuring effective social protection coverage for all workers, regardless of the type of employment relationship, as well as for the self-employed. However, public debate has focused on the wider scope of the Green Paper rather than on the Recommendation specifically. In addition, the plan pursuant to the text of the Recommendation had still not been submitted by Portugal on 1 June 2021.

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<sup>10</sup>. Available at: <https://www.portugal.gov.pt/download-ficheiros/ficheiro.https://bit.ly/2VOoK5m>

## Conclusions

Overall, the measures introduced in response to the Covid-19 pandemic have eased access of NSW and the self-employed to social protection. However, available studies and data clearly indicate problems regarding implementation. Although Portugal temporarily increased access to groups of workers not previously covered, some categories have been totally or partially excluded. Additionally, the benefits for the self-employed are less generous, and the flat-rate replacement payment is usually set at or below the minimum wage or social assistance level. This has been criticised by various stakeholders including trade unionists, who have emphasised that the measures often do not protect the most vulnerable workers and tend to provide financial support that does not lift people above the poverty threshold.

In May 2020 the government and social partners signed a Declaration of Commitment expressing their joint commitment to tackle the consequences of the pandemic crisis, and to value the role of social dialogue and of social partners in the elaboration, monitoring and evaluation of public policies. The unions are represented in the Standing Committee for Social Dialogue, which has been active during the pandemic. However, the involvement of trade unions is characterised as modest, as they are mostly just informed and invited to comment, rather than being more actively involved in the design/drafting of measures.

Trade unions are also actively engaged in the discussion of the 'Green Paper on the future of work'. This seems to provide the general structure, at least thus far, for the process of discussion and possible implementation of the EU Recommendation on Access to social protection for workers and the self-employed. It most likely sets out the main direction for future action regarding the situation and social protection of NSW and the self-employed.

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# Country chapter Romania

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## Introduction

Romania was one of the first European countries to declare a state of emergency and to impose a generalised lockdown,<sup>1</sup> very early in relation to the outbreak of the pandemic (March 16, 2020 – May 14, 2020). After May 15, 2020, the Romanian National Committee for Emergency Situations declared successive states of alert, of which the most recent is still in place.<sup>2</sup> The early lockdown gave the government a respite period to put in place a series of intervention and prevention mechanisms (especially medical emergency responses and health care arrangements) and to adopt a series of measures aimed, as a priority, at protecting employment and preventing unemployment during a period when all non-essential economic activities had been suspended or significantly restricted.

Overall, the government put in place effective emergency procedures in the healthcare sector, thus allowing universal access to prevention and treatment of Covid-19 related conditions, prioritising access to other medical services, prioritising Covid-19 testing and vaccinations, and deploying significant funds to acquire protective equipment and medical appliances. The responses in both sectors – labour force/ employment and healthcare - were consistent and well structured; yet (un)employment-related measures focused mainly on employees,<sup>3</sup> while only a very small share of the self-employed were addressed properly by these.

As most support measures adopted during the pandemic were aimed at preventing unemployment and ensuring job retention, the social protection system failed to

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1. Decree 195/2020 and Decree 240/2020, declaring a state of emergency for 30 days, i.e. March 16 - April 15, and April 15 – May 14 2020 respectively.
  2. The state of alert (regulated by the GEO 21/2004) grants the National Committee for Emergency Situations the right to declare, for a period of 30 days, a state of alert, enabling the government to adopt and implement action plans and preventive measures aimed at limiting and overcoming the effects of emergency situations. The most recent decision extending the state of alert in Romania was taken on May 13, 2021. The difference between a state of emergency and a state of alert is that the first is adopted by military ordinance and can limit and restrict the civil rights of the population, while the latter is by decision of the Committee and limited to preventive actions, without any restrictions of civil rights.
  3. Workers holding an individual work contract, in a work relationship with an employer, full-time or part-time. For the purposes of this chapter, we use the following definitions of different types of employment (ILO 2016): Standard employees i.e. full-time open-ended contracts; non-standard workers i.e. contractual employment outside of full-time open-ended contracts (e.g. part-time, temporary contracts, zero-hour, seasonal workers etc.); self-employment, i.e. people working for their own account.

address, in a consistent manner, other vulnerable categories, especially low-income families (among which families with children, families living in marginalised communities, the long-term unemployed). The government was slow in addressing significant barriers to education: Romania has been one of the countries in Europe with the highest number of online school days. No important measures related to minimum income and housing have been adopted to help vulnerable groups cope with the crisis; in fact, the government deferred and phased in the expected increases in some benefits (child benefits, pensions, minimum income guarantee) and even suspended, temporarily, other social benefits (e.g. the social educational tickets for early child education).

Thus, the crisis generated by the Covid-19 pandemic revealed and amplified some of the most significant structural inequalities in the country, including labour market inequalities and the failure of the social protection system to address two important, mostly overlapping vulnerable groups: low-income families and employed people without a formal employment status (i.e. occasional workers, a significant proportion of the self-employed working in subsistence agricultural activities and contributing family members).

The first Section will focus on the legal framework regulating unemployment, sickness, and extra-ordinary, pandemic-related parental benefits, with an emphasis on the access of various categories of employed to social protection, in particular to unemployment, sickness and parental ‘pandemic-related’ leave. Section 2 will focus on the legal arrangements and de facto consequences of these arrangements on the access of non-standard workers and self-employed to social benefits. Section 3 focuses on the role and scope of intervention of trade unions in improving social protection of workers. All three sections will discuss the extra-ordinary protection measures targeted at the employed, adopted by the Romanian government to address the effects of the Covid-19 pandemic, and how these altered the protection and prospects of social protection of those in non-standard employment. It will also examine the role of trade unions in the social dialogue. Section 4 discusses future perspectives concerning social protection of the Romanian workforce, at a time of increased diversity of employment forms and limited reforms to address this.

## 1. Description of measures

The legal framework grants differentiated access to (un)employment benefits for standard and non-standard workers, depending on their enrolment/employment status, in the three major social insurance systems available in Romania: (i) social insurance, related to the public pension scheme; (ii) the health care social insurance system; (iii) work insurance, comprising unemployment insurance and insurance for sickness leave/benefits. *Employees,<sup>4</sup> depending on their work*

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4. A worker with an individual work contract, permanent or for a defined period (full-time or part-time) or who has a work relationship with an employer; in both situations the employer is responsible for the work insurance.

*history*, are granted full access to all benefits – unemployment, sickness leave/indemnities, and ‘pandemic parental leave’. However, low-income part-time employees (with an income lower than the minimum salary), were, until 2020, at a disadvantage compared to full-time employees, as they were subject to the same fiscal burden for the same rate of benefits.<sup>5</sup> Temporary agency workers have the same advantages as employees. Yet the legislation does not stipulate different eligibility conditions for these categories, thus creating access barriers especially for low-income workers, due to high fiscal burdens and work history requirements, despite the considerable variations in work intensity and income.

Compared to other categories of NSW, the *self-employed* have, de facto, more restricted access to benefits. In principle they can access the benefits, but at least two social insurance components are optional (i.e. for unemployment and sickness benefits), and the conditions for accessing these benefits put the self-employed at a disadvantage (higher social contributions, equivalent eligibility criteria without taking into account variability in work intensity). Benefit coverage of this category is thus significantly reduced. Self-employed people on a low income<sup>6</sup> face even higher barriers, as all social insurance components are optional for them, and the fiscal requirements not only create no incentive to insure against these risks, but on the contrary, act as a significant disincentive to enter the formal labour market.

## 1.1 Unemployment benefits

Romania has one single unemployment benefit (UB, i.e., *ajutorul de șomaj*) which is contributory for all those with a formal employment history, but non-contributory for recent graduates, irrespective of their former status on the labour market. The benefit is conditional upon coverage by the unemployment insurance, part of the broader work insurance,<sup>7</sup> which is compulsory for employers, thus automatically granting coverage to employees, but optional for the self-employed. However, the self-employed can opt to pay unemployment insurance, if already enrolled in the pension and health care insurance scheme.<sup>8</sup> In addition, to qualify for UB, a contributory history of at least 12 months during the last 24 months is required for both employees and the self-employed. This condition restricts the access of dayworkers to UB, as, per legal definition, they cannot work more than 120 days annually.

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5. These workers were required to pay social contributions at the level of the minimum salary (i.e. 35% of the minimum gross salary). In 2020, the fiscal code (law 227/2015) was amended (law 263/2019), allowing them to pay social contributions reflecting their level of income (i.e. if lower than the minimum gross salary).
  6. Earning annually less than the equivalent of 12 monthly minimum gross salaries.
  7. The contribution to the unemployment fund represents 0.5% of gross income. From 2018, the contribution is solely the responsibility of the employer, and workers who are not in a contractual work relationship with an employer are required to pay 0.5% of their gross income, in order to be covered.
  8. For self-employed with an annual income of at least 12 minimum gross salaries, enrolment in the public pension system and in the health care system is compulsory, while for those with a lower income, social insurance is optional.

To receive the unemployment benefit, a person must also: (a) register with the local Labour Force Office (b) have an income no higher than the Social Reference Index (currently 500 Lei, i.e. €101) per month and (c) not turn down any job offer in line with their qualifications, or participation in a (re)training course. Trainees (students at vocational schools) are considered to be persons in education and *not* eligible for unemployment benefit; apprentices have the status of an employee on a temporary individual work contract. Finally, unemployed people who resigned from their job or left by mutual agreement with their employer are also ineligible.

For former employees, since 2011, the UB level is 75% of the social reference index (SRI<sup>9</sup>) plus 3 - 10% of the average monthly income over the last 12 months; the benefit is granted for 6 to 12 months. Both the final level of the benefit and its duration depend on the contributory history. Currently (May 2021), 75% of the SRI (€76) is equivalent to 27% of the minimum net salary. For recent graduates, the benefit level is 50% of the SRI/ month, granted for 6 months. In 2021, this benefit is equivalent to 19% of a minimum net salary.

As a result of the pandemic, the government adopted a measure increasing the support for UB beneficiaries; in May 2020 (law no. 59/2020) the duration *for which the unemployment benefit is granted* was extended *by three months*. This measure applies to all those who receive/ are eligible to receive unemployment benefit. The measure is temporary and ends in July 2021.

## 1.2 Sick pay and sickness benefits

Romania has two major sickness benefits (GEO no. 158/2005), which are contributory and related to the public pension social insurance system and the health care insurance system: (a) *medical leave/indemnities for temporary work incapacity due to regular sickness/diseases or accidents which are not work-related*, (b) *Medical leave/indemnities for work-related accidents or occupational disease and prevention of sickness and work capacity rehabilitation*. There are also three additional types of leave related to maternity/ maternal risks and care for sick children.

The benefits are conditional upon enrolment in the public pension social insurance system, in the health care insurance system and upon payment of a sickness insurance contribution. For employees, this latter contribution is part of the work insurance payable by the employer; however, for the self-employed it is optional, and they must pay an additional 1% of their gross income (but not less than 1% of a minimum gross salary monthly) in addition to contributions to the public pension and health care systems.<sup>10</sup>

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9. The social reference index was introduced by the law regulating unemployment (law 76/2002), as a means to harmonize unemployment benefits with labour market incomes and social benefits. Yet the index has not been updated since its adoption; its value remains at 500 Lei (€101).

10. The contributions to both the pension and health care insurance make up 35% of the gross income, but no less than 35% of the minimum gross salary.

The law (GEO no. 158/2005) requires a minimum contributory period of 6 months during the last 12 months before becoming eligible for paid medical leave. An exception is made to this rule for certain medical conditions, such as medical-surgical emergencies, severe diseases, such as tuberculosis, HIV/AIDS and several other infectious diseases grouped under the label ‘group A infectious diseases’, which are established by governmental decision. The same holds true for maternal risk leave, which does not require any contributory history.

*Medical leave for temporary work incapacity due to regular sickness/diseases or accidents which are not work-related* is granted for a maximum of 183 days/year (with some exceptions). The indemnity received is 75% of the average gross salary over the last 6 months. Medical leave is supported by the employers for the first 5 days, and by the health care system through the social insurance system for the rest of the period covered.

*Medical leave for work-related accidents or occupational disease and prevention of sickness and work capacity rehabilitation* is granted for a maximum of 180 days/year, which can be extended for at most 90 days. The benefit is 80% of the average gross income over the last 6 months before the leave, or 100% in the case of surgery or medical or other infectious diseases clearly specified by law. In addition, during the state of emergency/alert, the indemnities granted for self-isolation, quarantine or treatment of Covid-19 have been increased to 100%.

In May 2020, due to the Covid-19 pandemic – and the special measures adopted, including the regulations on self-isolation and quarantine<sup>11</sup> – a temporary measure was adopted, granting access to paid medical leave, and associated indemnities without any requirements regarding the minimum contribution period to the social insurance system for persons diagnosed with Covid-19 (for medical leave, quarantine or self-isolation due to Covid-19), similar to other medical conditions specified by the law, as emergency surgeries or group A infectious diseases (Governmental Decision no. 423/2020). In addition, quarantine and self-isolation due to Covid-19 entitles the insured person to an increased indemnity. The increased indemnity is granted to those quarantined only on a temporary basis, during a state of emergency or alert. Yet the indemnity for temporary incapacity for work due to sickness from Covid-19 is granted at 100% of the reference income on a permanent basis, since Covid-19 has been added to group A of infectious diseases.

11. Law 136/2020 (amended by law 210/2020) defines quarantine as the separating out of individual persons who suspect they may be carrying an infectious disease or who have been at risk of acquiring the disease, in either special places provided by the public authorities or at home/ a private address; the Public Health Directorates are involved in monitoring the person placed in quarantine and determine the length of it. (Self-)isolation, however, is when a person carrying a pathogen linked to an infectious disease is isolated in a health facility or at home (self-isolation), until cleared or for at least 14 days after a positive test. Both situations are subject to specific legal regulations and penalties.

### 1.3 Special 'pandemic leave'

One of the first measures adopted during the pandemic by the Romanian government (March 2020, through GEO no. 30/2020<sup>12</sup>) was to grant paid leave days to employed parents for times when their children, up to 12 years of age (or up to 26 for children with disabilities), are not attending ECEC services or school due to restrictions/ lockdowns/school closure. The benefit is granted to one of the parents, if both are employed.

The benefit is conditional upon the payment of all social contributions and applies only to parents who are employees (*including part-time employees, or temporary agency workers with an individual work contract*); restrictions apply for parents working in the army, prisons, the public health system or another strategic industry (energy, telecommunication, etc.), due to the nature of their work.<sup>13</sup> In addition, the measure does not apply to parents hired as personal assistants to their children with severe disabilities, to parents who are on leave or in technical unemployment (i.e. for whom individual work contracts are temporarily suspended due to Covid-19 related restrictions). *The measure does not cover self-employed parents.* The measure took effect in March 2020, and has been extended until June 30, 2021.

The indemnity, calculated per day, is equivalent to 75% of the current gross salary/ workday, but not higher than 75% of the average national gross salary (about 193 Lei/day, approx. €40). The benefit is paid by the employer<sup>14</sup> and reimbursed, on application, by the Salary guarantee fund.<sup>15</sup> The reimbursement covers only the net income of the employee; thus, the social contributions are paid by the employer. There is no limit on the number of days for which the benefit can be granted, but it is temporary and ends with the lifting of the state of alert.

The replacement rate of the indemnity is the same as that granted for leave to care for a sick child; however, the duration of the leave granted to care for children during school closure is not specified, whereas the leave to care for a sick child is generally granted for a maximum of 45 days per year. In addition, the 'pandemic' leave for parents is more restrictive, as it is restricted to employees. Parental leave is thus more generous than 'pandemic' leave in scope, level and duration. Parental leave is granted to all those with a minimum of 12 months of work history, irrespective of the type of employment, as long as the income is declared, and social contributions to the public pension system and to the health care insurance

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**12.** Adopted by Law no. 19/2020 and amended by GEO 147/2020 (August 2020), GEO 182/2020 (October 2020) and GEO 198/2020 (November 2020), GEO 220/2020 (December 2020, art. III).

**13.** For these workers, the leave will be granted, as a priority, to the other parent, unless he/ she is a single parent or both parents work in the same industry. In this latter situation, individual arrangements are reached with the parents (for example, medical staff are granted an additional wage benefit, for alternative arrangements).

**14.** Based on an agreement with the employee regarding all available options. While the employee, in principle, is entitled to paid days of leave, the employers can provide alternative solutions to accommodate both work requirements and parental responsibilities.

**15.** A fund constituted from the work insurance contributions paid by employers (Law no. 200/2006).

system have been paid. In addition, parental leave is granted for up to 2 years and has a higher replacement rate, i.e. 85% of the average gross income over the last 12 months of work. In Romania, parental leave, although conditional upon paid (taxable) work income, is considered a social assistance benefit, and supported from the State budget.

## **2. Potential effect of these measures on non-standard workers and the self-employed**

Eligibility conditions, for all social benefits under scrutiny, are the same for all types of employees, in standard and non-standard work forms (temporary and permanent contracts, full-time and part-time contracts). However, the minimum work history requirements, for both sickness and unemployment benefits, put workers on temporary contracts at a disadvantage. Until 2020, low-income, part-time workers were also disadvantaged due to the requirements regarding minimum insurable income, set at the level of the minimum gross salary. Since 2020, this has been corrected, and the social contributions strictly reflect the employee's income. Yet the number of non-standard employees is not high; the proportion of temporary work contracts was, in 2020, 15 times lower than the EU average (1% compared to 15%, according to the labour force survey<sup>16</sup>); similarly, the proportion of part-time work contracts was, in 2020, 6% of all work contracts, compared to 18% at the EU level.<sup>17</sup>

The situation is a little different for the self-employed. While overall eligibility conditions for social benefits are the same, a few elements of the legal design of both unemployment and sickness social insurance significantly impact access of the self-employed to these benefits: (a) the voluntary nature of these insurance components; (b) the voluntary nature of the pension insurance for low-income self-employed, a pre-requisite for further access to unemployment and sickness benefits; (c) the minimum annual insurable income (for all social insurance components), set at 12 minimum gross salaries (d) the self-employed are required to pay the same levels of social contributions as employees, and (e) the self-employed have to pay additional social contributions (such as unemployment and sickness insurance contributions), which, for employees, are borne by employers. The hardest hit are low-income self-employed, as for them the fiscal burden is too high.

Of the around 2 million paid and unpaid workers who are not classified as employees (i.e., about one quarter of all those in work), only about 10% are 'visible'

<sup>16</sup>. Eurostat, Labour Force Survey, ifsa\_esegt, accessed June 15, 2021.

<sup>17</sup>. Eurostat, Labour Force Survey, ifsa\_epgais, accessed June 15, 2021.

in the social insurance system,<sup>18</sup> and thus formally entitled to work-related benefits. Excluding from the employed the category of contributing family members (unpaid workers, according to the Labour Force Survey), in 2020 roughly 19% of all those who declared themselves as self-employed were insured in the social pension insurance system. While no data are available regarding the proportion of those who are voluntarily insured against unemployment and sickness, our previous estimations show that over 80% of the self-employed are excluded from all work-related social benefits.

Coverage with *unemployment benefits* is low, even for workers in standard employment. The proportion of registered unemployed receiving unemployment benefits has decreased over time; during 2016-2019, between 20% and 25% of all registered unemployed were receiving the benefit. Given that many unemployed who are not entitled to any benefits are not even registered with the employment offices, the incidence of unemployment benefits is even lower. In 2020, due to an increase in new unemployment, the proportion rose to 33%. The proportion of beneficiaries out of the total ILO unemployed population was, at the end 2019, 17%, reaching 22% at the end of 2020. Finally, of those receiving unemployment benefits in 2019, 14% were recent graduates. This proportion fell to 10% in 2020, as unemployment increased due to the Covid-19 pandemic.

During the Covid-19 pandemic, the government adopted some temporary measures (ending June 30, 2021) which were intended to also cover non-standard workers and self-employed. These measures (a) increased the duration of receipt of unemployment benefit for those who were already receiving it, thus increasing to some extent the coverage rate among the registered unemployed, (b) extended the indemnity for suspended activity (i.e. technical unemployment) to some categories of self-employed and (c) extended the indemnity for short-time work to the self-employed, thus expanding the financial support to all those self-employed insured within the pension system who were not eligible for unemployment benefits.

Thus, according to the MLSP,<sup>19</sup> during 2020, about 104,000 self-employed people and other professionals benefited from the indemnity for suspended activity, i.e., 50% of all self-employed people insured through the social insurance system in December 2020. However, the number of insured self-employed represented, in December 2020, only about 7% of all self-employed people identified through survey data.<sup>20</sup> During the first three months of 2021, an additional 9,079 self-employed people and other professionals received the indemnity.

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**18.** Calculation based on the number of insured in the public pension system who are not employees, as declared by the National Public Pension House (<https://www.cnpp.ro/indicatori-statistici-pilon-i>) and the number of non-employees who are in work, estimated by the LFS (see Eurostat data).

**19.** Statistical bulletin on social assistance benefits, 3<sup>rd</sup> quarter 2020: <http://mmuncii.ro/j33/index.php/ro/transparenta/statistici/buletin-statistic/6197>

**20.** Minus contributing family members who are not paid for their work.

During December 2020, according to the National Public Pension House data, 38,320<sup>21</sup> insured workers holding an IWC received the short-time work indemnity, and the number increased in February 2021 to 45,204. A study by Eurofound (2020) estimated that the overall take-up of the benefit was between 20% and 30% of all employed. The number of beneficiaries among the self-employed and occasional workers was 33,776 over the period August-December 2020, about a third of those receiving the indemnity for suspended activity (technical unemployment) and approximately 15% of all self-employed people insured in the social insurance system at the end of 2020. The highest number of self-employed people receiving the indemnity was recorded in November (26,400 persons) and the lowest in August 2020 (9,700 persons). For the first three months of 2021, the number of beneficiaries was 27,754. Although the number of employees receiving the benefit was, on average, higher than the number of self-employed people, the budgetary expenditure was higher for the self-employed, indicating that the benefit was paid over a greater average number of days for self-employed people than for employees.

During the pandemic, access to sickness benefits has been increased only for those with no or a very short work/contributory history, as the requirements for a contributory period of at least 12 months for temporary work incapacity leave (sick leave) have been lifted. This measure increased access for those who had recently entered the labour market or those on temporary individual work contracts, yet it did not increase the access of self-employed/dayworkers to sickness benefits. However, during the pandemic, health care services related to the prevention and treatment of Covid-19 have been made available to all citizens, irrespective of their employment or insurance status.

The proportion of workers receiving sickness benefits (for all types of medical leave, including maternity leave) was, at the end of 2019, 4.3% of full-time employees, a proportion 2.4 times higher than for part-time employees and almost 4 times higher than among the self-employed (1.1%). The proportions increased, during 2020, for all categories of employed – full time employees, part-time employees and the self-employed – reaching, in December 2020, 6.2% of full-time employees, 2.4% of part-time employees and 1.7% of the self-employed.<sup>22</sup>

Compared to the previous benefits, the temporary measure adopted to address the closure of schools and ECE facilities targeted exclusively employees (i.e. those employed on the basis of an individual work contract, in a work relationship with an employer). There are no data available regarding the average number of days for which employees benefited from the measure. According to the National Public Pension House,<sup>23</sup> in September 2020 (the first month for which data have been released), the number of beneficiaries was 533; this number increased during the autumn, and peaked during November-December, reaching a maximum of 16,000 parents. The numbers started to decrease again

**21.** <https://bit.ly/3EmIP44>

**22.** Data available from the Ministry of Labour and Social Protection, Statistical Bulletin, Social Insurance, available at [http://mmuncii.ro/j33/images/buletin\\_statistic/pensii\\_2020.pdf](http://mmuncii.ro/j33/images/buletin_statistic/pensii_2020.pdf)

**23.** <https://www.cnpp.ro/indicatori-statistici-pilon-i>

at the beginning of 2021, as schools started re-opening. Overall, the number of beneficiaries is low, representing less than 1% of Romanian employees.

Overall, while the proportion of employees in non-standard work (NSW) is rather low in Romania, the legal design of the systems regulating unemployment and sickness benefits imposed, until 2020, the same requirements and conditionalities for all employees, irrespective of type of work contracts. This had a negative impact on access of those in NSW to these benefits. The high fiscal burdens for low-income NSW favoured a grey economy, while the contributory requirements put temporary workers and dayworkers at a disadvantage.<sup>24</sup> The amendments to the 2018 fiscal reform corrected some of these inequities embedded in the fiscal system, for example those between low-income part-time and full-time employees.

The self-employed are clearly disadvantaged compared to employees in standard and non-standard employment by the legal requirements and conditions attached to these schemes, and – while by law they have access to both unemployment and sickness schemes on a voluntary basis – de facto their access is limited.

Most of the measures adopted during the Covid-19 pandemic did not enable access for those who previously had no access to various benefits, but rather consolidated the support for those who were already covered by, at least, the social pension insurance. Support to the unemployed was limited to those registered and already receiving unemployment benefit, while the long-term unemployed – registered or not – had to rely on social assistance benefits (such as the MIG, the child allowance and parental leave). Yet these benefits have been largely frozen (e.g. the MIG) or their updating has been postponed, and no significant social assistance or housing benefits have been put in place during the pandemic.

Pandemic-related measures brought about an unprecedented rise in the support for the self-employed, by granting those who were already covered by the pension social insurance access to two important benefits: the indemnity for those with the work contracts put on hold due to temporary suspended economic activity and the short-time work indemnity. Yet these measures were temporary, leaving unaddressed the high discrepancies in social protection between employees and the self-employed.

The discrepancies in social protection between these categories are reflected in the AROP and AROPE, as no effective and adequate MIG measures or other social assistance/housing programmes have been in place to address in-work poverty in Romania during the last decade. Pandemic measures prevented, at best, an explosive increase in the welfare gap among an already polarized employed population.

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**24.** By law, day workers are defined as those who work a maximum of 120 days per year.

### 3. The role of national trade unions

In March 2021, the Ministry of Labour and Social Protection (MLSP) published a list of the ten most representative trade union and employers' confederations, in accordance with the law on social dialogue (law 62/2011<sup>25</sup>). The overall number of trade union members is not available; before the new law on social dialogue was passed, their number was estimated at 2.4 million workers, representing about 50% of the total number of contractual workers.<sup>26</sup> Currently, three of the biggest trade unions comprising most private sector trade union members – the National Trade Union Confederation 'Cartel Alfa', the National Trade Union Block (BNS) and the National Confederation of Free Trade Unions in Romania, C.N.S.L.R Frăția - cover about 1.8 million workers, representing, before the pandemic (January 2020) about 36% of all employees. Two other important trade union confederations – the Democratic Trade Union Confederation of Romania (CSDR) and the National Confederation MERIDIAN – cover the police and public administration. Government decisions related to employment and work conditions require a tripartite dialogue (National Council for Tripartite Social Dialogue, NCTSD).

During the pandemic, most of the measures taken – related to small and larger enterprises, the unemployed, suspension of activity, job retention, including reduced work time arrangements,<sup>27</sup> sickness benefits – have been adopted after consultation with the NCTSD. The involvement of the trade unions in the design of the measures was limited, more or less, to their participation in the NCTSD. The power of social dialogue has declined since 2011, a fact acknowledged by many confederations (e.g. Cartel Alfa is actively opposing the law on social dialogue adopted in 2011), and the limited effectiveness of trade union involvement became even more obvious during the pandemic (Krokavay 2021). In many European countries, the social dialogue intensified during 2020, while in Romania social dialogue has been limited to brief formal consultations. In addition, collective bargaining also declined during the pandemic, as by law, all agreements prior to the lockdown/ state of alert remain in place for up to 90 days after the state of emergency, with the need to re-initiate collective bargaining within 45 days after the end of the state of alert (Allinger and Adam 2021).

Even though the number of consultation meetings with NCTSD increased in 2020 compared to 2019,<sup>28</sup> the role of the social partners has been rather limited in shaping responses to the Covid-19 crisis, in the opinion of most important confederations. A series of protests have been organized by trade union confederations during April-June 2021, to point to the risks associated with the government's response to the Covid-19 crisis.

<sup>25</sup> The law on social dialogue is strongly opposed by some of the large trade union confederations, such as Cartel Alfa.

<sup>26</sup> <https://www.zf.ro/profesii/sindicatul-cea-mai-mare-teama-a-directorilor-de-hr-5089897>

<sup>27</sup> For which trade unions who had collective agreements with employers become important actors.

<sup>28</sup> 40 meetings during 2020 organized by the Ministry of Labour and Social Protection, compared to only 17 in 2019; BNS, CSM Meridian and CSDR, CNSL Frăția had the best attendance rates among all the confederations represented in the NCTSD (data available at <http://dialogsocial.gov.ro/prezenta-cds/>).

The issues pursued by trade unions during 2020-2021 were mostly related to (a) the minimum wage and implementation of the European Pillar of Social Rights, (b) the ratification of 14 points of the European Social Charter still unratified by Romania (which include the right to social assistance services, social inclusion, social protection of the elderly etc.,<sup>29</sup> (c) implementation of the legislation adopted prior to the onset of the pandemic (regarding remuneration in the public system, and especially in health care and social assistance, and the sustainability of the public pension system)<sup>30</sup> and, finally, (d) respect of the agreed schedule for increases in several social benefits (pensions, child allowance), without which the social protection system is seriously threatened during the crisis generated by the pandemic.<sup>31</sup>

All major trade union confederations complained, over the past year, about the lack of a real social dialogue and that the government largely ignored the requests and warnings voiced by the trade unions. Currently, the trade unions are strongly opposing the so-called ‘austerity’ policy in relation to remuneration and social protection, as a response to the Covid-19 crisis,<sup>32</sup> and are calling upon the government to comply with their agreements with the EU.

However, trade unions have been actively involved in the elaboration of the proposal for the national resilience and recovery plan (NRRP).<sup>33</sup> BNS has drawn up several proposals concerning two major fields of social protection: fiscal measures for increasing access of low-income workers to social benefits and the public pension system.<sup>34</sup>

#### 4. Future perspectives

The crisis generated by the pandemic had a strong impact on future developments regarding the social protection of non-standard workers (NSW) and the self-employed. Despite the efforts made since 2015 to reform and fine-tune fiscal and employment-related legislation, the welfare gap between employees in standard

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29. <https://www.cartel-alfa.ro/ro/comunicate-57/cns-cartel-alfa-solicita-guvernului-romaniei-sa-finalizeze-procedura-de-ratificare-a-carlei-sociale-europene-prin-acceptarea-celor-14-puncte-ramase-neratificate-125>

30. In January 2021, Cartel Alfa published a protest letter to the Romanian government, opposing the austerity policy implemented during the pandemic, with a significant impact on both salaries and social protection. <https://www.cartel-alfa.ro/uploads/87d3dfaa32ba.pdf>

31. <https://www.bns.ro/info-bns/610-comunicat-de-pres-a-bns-copiii-romaniei-condamnati-inca-o-data-la-saracie>

32. Due to the Covid-19 crisis, the government postponed many measures which should have taken effect during 2020-2021, including planned gradual increases in salaries in the public sector and a major increase in social benefits, such as the universal child allowance. Other measures have been entirely postponed or suspended, such as education vouchers and the minimum insertion income.

33. <https://www.caleaeuropeana.ro/dragos-pislaru-romania-laudata-de-partenerii-sociali-pentru-consultarile-publice-privind-elaborarea-planului-national-de-redresare-si-rezilienta/>

34. <https://www.bns.ro/info-bns/608-propuneri-de-masuri-de-reforme-si-investitii-finantate-prin-pnrr-sustinute-de-blocul-national-sindical>

work and NSW, and the self-employed, continued to grow. First, the pandemic made this gap visible and acute, creating public awareness regarding the ‘atypical’ work forms and the need to offer adequate and equitable social protection for these workers. Secondly, during the pandemic, the government adopted, for the first time, a series of temporary measures targeting the self-employed, day workers and other NSW forms (suspension of activity, the reduced work-time indemnity, the subsidizing of salaries for work contracts of up to three months).

Although the measures were temporary, the government began to shift its attention towards these categories in an unprecedented manner. For example, in June 2021, the government is expanding eligibility for a pandemic-related support benefit granted previously only to employees with suspended economic activity (due to Covid-19); the benefit will now also be available to the self-employed (with a special emphasis on those working in cultural services).

The increased focus on different employment forms has also been triggered by the diversification of forms of self-employment over the last ten years (not least due to the fiscal burdens and arrangements before the 2018 fiscal reform), and the significant increase in the number of platform workers, reaching, in 2018, the EU average (Bechir 2019). While the proportion of platform workers in Romania was, in 2017, still below the EU average, the proportion of primary platform workers (working over 20 hours a week through online platforms) was, in 2017, around the EU average (i.e. 1.4%). In 2018, Romania, according to the COLLEEM survey, was the second-most country in terms of foreign platform workers, with 1 in 11 foreign-born workers, of which two thirds work in the UK (Urzi Brancati *et al.* 2020: 27). Finally, while the number of workers in the IT sector is very high, estimated at about 64 thousand (with a higher density of IT specialists than the US or Russia, according to Roşioru 2019: 85), Romania is also amongst the top countries for the provision of non-professional services (according to Pesole *et al.* 2018: 5), with an increasing number of workers in the delivery business (especially food delivery) and taxi drivers.

Platform workers adopt a variety of employment forms, from self-employment to bogus freelancing and paid employment mediated by a third party. Many are contracted by temporary work agencies; thus, some of them enjoy the full benefits of being an employee in NSW, while others maintain self-employed status. Changes in the tax code in 2015 addressed the problem of the dependent self-employed; hence many dependent workers have been reclassified as employees (according to the 2017 legal amendments). Maybe the most visible transformation has been in the IT sector, where workers migrated from self-employment to salaried employment, due to both the changes in legislation and the facilities established by the government for this category (see also Roşioru 2019). But many of the home-based workers, and especially those workers providing non-professional services, are still working in an area of self-employment which does not offer even minimal protection regarding their work or social rights. They are invisible in the official data and not reached by trade unions (Roşioru 2019: 91).

The country recommendations issued in May 2020 for Romania, in the context of the Covid-19 pandemic, emphasized the need to develop adequate income

replacement solutions for the workforce affected by the crisis, to develop flexible work programmes, and to increase activation measures. Therefore, the national reform programme issued in June 2021 by the Romanian government points to all the measures adopted since March 2020 aimed at protecting the workforce. While the reform programme does not address the issue of self-employment or other non-standard employment forms, it does emphasize the need to increase the (administrative and digital) capacity of the social partners, an aspect assessed as still weak.

As a more concrete response to the Council recommendations on accessing social protection, the government introduced, in the final form of the national recovery and resilience plan (NRRP),<sup>35</sup> and in line with the BNS proposals, 5 important social reforms (component 13 of the plan), with a total allocated budget of 167 million Euros. These include implementation of the minimum inclusion income (postponed from 2016) and the introduction of work vouchers to increase the proportion of workers in the formal economy, thus with access to social benefits. The government estimated that there are about 500,000 in-home workers, working informally, with no access to social benefits. In addition, a pilot project has been proposed (the ‘zero-tax minimum wage’), to act as a basis for further fiscal reforms removing the fiscal burden from low-income workers.

In line with the NRRP proposals, the government launched a draft law designed to increase formal employment of babysitters, housekeepers, gardeners, and pet sitters, by creating the legal framework for these to enter a contractual relationship with those using their services, and by introducing payment vouchers, to be exchanged by the workers for money from the fiscal institutions. The project is highly controversial, due to potential implementation difficulties.

## Conclusions

While the 2015 fiscal reforms contributed to the fall in the proportion of self-employment, redefining dependent work and permitting the reclassification of various emergent employment forms, Romania still has a significant proportion of self-employed or non-standard workers. The legislation regarding the social protection of workers failed to address the growing variety of employment forms, favouring salaried employment over self-employment. As a consequence, the gap in social protection between these two categories has increased, leading to a huge gap in welfare and the highest in-work poverty across the EU.

Access to unemployment and sickness benefits is open to all those who work in the formal economy; however, the following significant access barriers arise for non-employees: (a) social insurance schemes – unemployment, sickness, pension, and health care – are partially optional, or entirely optional for low-income workers

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35. Published on June 2, 2021, available at [http://media.hotnews.ro/media\\_server1/document-2021-06-2-24834826-0-pnrr-varianta-finala.pdf](http://media.hotnews.ro/media_server1/document-2021-06-2-24834826-0-pnrr-varianta-finala.pdf)

in non-salaried employment and (b) fiscal requirements are the same for all employed, thus creating major disincentives for those in non-standard work, and especially for low-income workers. A rough estimate shows that no more than 20% of paid workers who are not employees are enrolled in the public pension system; the proportion of those who, in addition, are also voluntarily insured against unemployment and/or sickness is unknown, but probably considerably lower.

In fact, the unemployment benefits fail to provide effective protection, even for those who are eligible; the proportion of the unemployed at risk of poverty grew in 2020 to two thirds, for the first time in 14 years rising above the poverty level of the self-employed.

The measures adopted during the Covid-19 pandemic target mostly those who were already entitled to these benefits, consolidating the support for these categories, and especially for employees. However, some of the measures were explicitly directed towards the self-employed and dayworkers, a significant improvement in the concern shown for these categories during the past ten years. Unfortunately, the measures adopted during 2020 are temporary, thus without a medium/long term impact on the self-employed; the government, indeed, is attempting to reverse or tighten the eligibility criteria, as some of the temporary measures adopted during 2020 have turned out to be very expensive.<sup>36</sup>

While the Romanian NPRR includes an explicit component addressing the increase in the proportion of workers in the formal economy, and support for those in informal work (the implementation of the minimum insertion income, postponed since 2016), the gap in welfare between employees and all other workers is currently largely unaddressed. As an effect of the Covid-19 crisis, this gap is at risk of increasing, and no effective or significant measures have been adopted to prevent the deepening of this gap, or to address vulnerable categories (on or outside the labour market). A reduction in informal work is essential, yet not enough; the legal system needs to provide adequate structures to encourage those in NSW and the self-employed to access social protection, thus enhancing equity among all workers. Finally, there is an urgent need, acknowledged by the government in its 2021 reform programme, to strengthen social dialogue and to help the social partners redefine their role in this changing economic context.

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**36.** In June 2021, an emergency ordinance (GEO no. 74/2021) was issued that tightens the eligibility criteria for sickness benefits, due to the increased costs linked to the National Health Insurance Fund during the Covid-19 pandemic.

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# Country chapter Sweden

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## Introduction

The Swedish economy was substantially hit by the Covid-19 pandemic, although lock-down measures were not as tough as in many other European countries. While businesses suffered from the recommendations and rules on social distancing, many jobs were protected through a temporary job retention scheme. Access to both unemployment and sickness benefits was made more generous. Temporary compensation for Covid-19 related risk groups was also introduced and the classification of Covid-19 as a socially dangerous disease made it possible to apply for a so called *disease carrier allowance*. Most of the temporary measures in place apply equally to all forms of employment,<sup>1</sup> though some specific rules were targeted at the self-employed (e.g. the temporary abolition of the five-year waiting rule in unemployment insurance).

The trade unions were supportive of the temporary measures in place, although there is an ongoing debate about the extent to which some of the changes should be made permanent. Concerns were raised in relation to the self-employed, who could not use the temporary job retention scheme. The Council Recommendation on access to social protection for workers and the self-employed 2019 has not received much public attention. Since February 2020, much of the public debate in Sweden has centered around the pandemic, and recently around the parliamentary motion of censure which led to the resignation of the Swedish prime minister on the 28<sup>th</sup> of May 2021 (re-elected 7 July).

The chapter is structured as followed. First, we review the rules and characteristics, and the major changes induced by the pandemic, of unemployment benefits, sickness benefits, and pandemic leave. Thereafter follows a brief discussion of the consequences of each measure, before turning to the role of the social partners. We then give a future oriented perspective, before drawing some main conclusions.

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1. For the purposes of this chapter, we use the following definitions of different types of employment (ILO 2016): Standard employees i.e. full-time open-ended contracts; non-standard workers i.e. contractual employment outside of full-time open-ended contracts (e.g. part-time, temporary contracts, zero-hour, seasonal workers, etc.); self-employment, i.e. people working for their own account.

## 1. Description of measures<sup>2</sup>

### 1.1 Unemployment benefits

Sweden has a two-tiered unemployment insurance system that applies to all employees and the self-employed.<sup>3</sup> It consists of a universal flat-rate benefit and voluntary earnings-related compensation. Membership of an unemployment insurance fund (for a continuous period of at least 12 months) is a precondition for entitlement to earnings-related compensation. There are special unemployment insurance funds for the self-employed.

Both benefits require previous activity with a minimum of hours worked per month over 6 months. Unemployment benefits are subject to 6 waiting days, and they are paid for a maximum of 300 days. Membership fees vary slightly between unemployment insurance funds (i.e. occupational sectors), but not between type of employment contract. The self-employed are subject to the same membership and work requirements. Entitlements are also the same for the self-employed.

Part-time employees receive benefits for the days (or hours) they are unemployed. As a baseline, average workhours in the last 12 months are used. Part-time employees who are partially unemployed receive benefits for a maximum of 75 days during weeks in which they are engaged in gainful employment. The remaining 225 days of benefits can only be received for weeks when the claimant is fully unemployed.

Self-employed persons cannot be partially unemployed and receive benefits, and they need to terminate their business, or put it on hold, to become eligible. If the corporate activity is re-activated, the self-employed person is barred from unemployment benefits for a period of 5 years; this is done with a view to reducing the risk of fraud.

In response to the Covid-19 pandemic, both maximum and basic benefits were raised, the 6 waiting days were abolished, and the qualifying conditions (both work requirements and membership requirements) were relaxed. All these changes apply equally to all types of workers and the self-employed. The changes entered into force on 13 April 2020, and most of them will be effective until 31 December

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2. See Fritzell *et al.* 2021 for further details.

3. The distinction between self-employed and employees is defined in Swedish tax law and refers to how income is taxed; either as derived from commercial activities or as resulting from contractual employment. Some small firms in Sweden are set up as companies in which the owner cannot be employed and receive a salary. Instead, profits are taxed as income from commercial activities. Based on this income, the self-employed pay municipal and state tax, as well as social security contributions (*egenavgifter*). Individuals who run a small business set up as a limited company have the option to be employed in their own firm (it is quite easy to set up a limited company in Sweden, and the required minimum share capital is only €2,500). In terms of social security coverage, employees who work in their own limited company are not treated any differently from other employees on the Swedish labour market. Nor are they considered to be self-employed in Swedish statistics. This definition of self-employment and its relationship to social protection in Sweden appears to differ from many other European countries. The proportion self-employed in Sweden is also among the lowest in the EU-27 (Eurostat 2021).

2022. However, the six-day waiting period was re-instated in January 2021, when the relaxed membership requirement for the earnings-related component was also abolished.

The universal benefit was raised for the first 100 days from €36.5 to €51 per day. The maximum earnings-related daily benefit was raised for the first 100 days from €91 to €120. On 29 June 2020, the maximum daily benefit after 100 days was also raised, from €76 to €100.

The work-requirement was relaxed from 80 to 60 hours of work per month during the last six months, or 420 (instead of 480) hours during a consecutive period of 6 months, with at least 40 (instead of 50) hours of work every month during the last 12 months.

Between March and December 2020, each month of membership of an unemployment insurance fund was counted as four months of membership, and the 'five-year rule' was abolished for those self-employed who became unemployed in 2020.

## 1.2 Sick pay and sickness benefits

During the first 14 days of sickness, employers pay sick pay. In 2019, the one-day waiting period for employees was changed to a deduction corresponding to 20% of the first weekly sick pay. After 14 days, the employee can apply for sickness benefit from the Social Insurance Office (*Försäkringskassan*).

In order to qualify for sick pay or sickness benefits, employment income is expected to last for at least 6 months or be considered regular on a yearly basis. Some employers do not pay sick pay, and in those cases the employee can instead apply for a sickness benefit. For example, this sometimes applies to employees who work by the hour and to zero-hour workers for whom employers may have special agreements. The sickness benefit is approximately 80% of the expected annual income (*sjukpenninggrundande inkomst*, SGI), up to a maximum of €81 per day. The maximum duration of the sickness benefit is normally one year.

Self-employed workers are not entitled to sick pay but can apply for sickness benefit if they cannot work at least one-fourth of their normal hours due to sickness. The rate of compensation is the same as for employed persons. For those who have been self-employed for less than 24 months, the sickness benefit is based on what an employee with the same work, education and experience is likely to earn. For those who have been self-employed for a period of more than 24 months, the sickness benefit is usually based on business income in the last 3 years. However, the income base (*sjukpenninggrundande inkomst*, SGI) for sickness benefits for self-employed workers can normally not exceed the average income base of a regular employee with similar education, experience and work tasks.

The self-employed may choose between different numbers of waiting days (1, 14, 30, 60 or 90 days). A choice of more waiting days reduces the rate of social

security contributions for the self-employed (*egenavgifter*). In the absence of an active choice, the waiting period is automatically set to 7 days. The possibility of choosing only one waiting day is not available for self-employed persons above 55 years of age.

Quite a few temporary changes to sick pay and sickness benefits were introduced due to the pandemic, and they have been subsequently prolonged in time. From 11 March 2020 to 30 September 2021, there is a temporary remuneration of the waiting day by the state (*Försäkringskassan*) at a fixed amount (€81 from 1 January 2021). This remuneration is provided also to the self-employed, irrespective of the number of waiting days that applies in each individual case. The requirement to present a medical certificate was also prolonged from one to two weeks of sickness. On 15 December 2020, it was extended to three weeks, applying to all kinds of employment as well as the self-employed.

Temporary compensation for groups at special risk from Covid-19 was introduced 1 July 2020, applying equally to all kinds of employment relationships and the self-employed. This benefit could be used by those who for medical reasons run a higher risk of getting seriously ill from the Corona virus and cannot work from home. The level of compensation is €81 (from 1 January 2021) per day. As for the changes to sickness benefits above, temporary compensation for risk groups will be effective until 30 September 2021.

In early February 2020, the government decided that Covid-19 was to be seen as a societally dangerous disease (*samhällsfarlig sjukdom*) which meant that - irrespective of employment contract or whether a person is self-employed - it became possible to apply for a disease carrier allowance. The allowance is only paid to people who are suspended from work because they carry (or might be carrying) a societally dangerous disease, and only after a decision by a physician, the latter condition relaxed from February 6, 2021. The disease carrier allowance is approximately 80% of the salary, up to a maximum of €81 per day. There are no waiting days.

### 1.3 Special 'pandemic' leave

Unlike most other European countries, childcare facilities and schools were not closed down in Sweden during the pandemic, although local outbreaks occasionally required children to stay at home. On 25 April 2020, the temporary parental leave benefit (*tillfällig föräldrapenning*) to care for sick children was extended to cover situations in which individual childcare centres or schools were temporarily closed due to the pandemic.<sup>4</sup> As from 1 July 2020, it also covered situations in which the child had to stay at home due to underlying medical conditions implying serious health consequences of a Covid-19 infection; these temporary extensions too are effective until 30 September 2021. The benefit is set at 90% of the ordinary benefit

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4. The 'temporary' prefix of the parental leave benefit has nothing to do with the Covid-19 pandemic, but is used to distinguish between receipt of benefit to care for sick children and benefit to care for newborns.

(*tillfällig föräldrapenning*). Special ‘pandemic’ leave is available for all workers and the self-employed. For the latter, the income base for calculating benefits is the same as for the sickness benefit.

## 2. Potential effect of these measures on non-standard workers and the self-employed

The temporary changes made to unemployment benefits (i.e. relaxation of work and membership requirements) should have made it easier for non-standard workers and the self-employed to access the system, and receive more generous benefits than before. Unfortunately, official statistics on the take-up of unemployment benefits do not distinguish between different forms of employment contracts. Nor are there any official data on the take-up of unemployment benefits among the self-employed. According to statistics from the Swedish Unemployment Insurance Inspectorate (*Inspektionen för arbetslöshetsförsäkringen*), unemployment insurance fund memberships increased by 7.2% (or 264,419 people) between January 2020 and December 2020. There are no statistics on the number of eligible persons, but the number of people in receipt of unemployment benefits increased by 108,399, or 45% in 2020, compared to 2019. The increase was 61.1% for the earnings-related benefit (requiring membership in an unemployment insurance fund), and 42.9% for the basic flat-rate benefit.

There seems to be a widely shared view among the social partners as well as policy makers that the status of so-called platform workers needs to be clarified, but there is no general support in Sweden for an EU definition of an ‘employed person’ (*arbetstagarare*) (Von Scheele 2021). In Sweden, it is currently up to the courts in each particular case to decide if a platform worker should be considered as employed or self-employed. While employers appear to be strongly in favour of national solutions, other actors are more open to discussing European solutions (Selberg 2021). At least one of the major trade unions, Unionen, has argued that platform jobs could very well be regulated by collective agreements, and that the ‘Swedish Model’ is flexible enough to make this work (Unionen 2021).

It should be noted that during the pandemic, a temporary system of short-time job retention was introduced (16 March 2020 – 30 June 2021), that substantially reduced the number of unemployed persons following the outbreak of the pandemic. According to statistics from the Swedish Agency for Economic and Regional Growth (*Tillväxtverket*), 100,806 applications for short-time job retention had been approved by 10 May 2021, involving 623,373 employees, which is equal to almost 15% of all employees (SCB 2021). The self-employed did not have access to short-term job retention. However, as noted above, persons employed within their own company are not regarded as self-employed in Sweden. These persons would have access to short-term job retention.

The temporary system of short-term job retention, in combination with the changes introduced to unemployment benefits, seems to have been rather

effective in limiting economic hardship and poverty. There is no official poverty line in Sweden, and typically in the national debate, the prevalence of low-income households is often evaluated in relation to social assistance caseloads. Before the Covid-19 pandemic hit Sweden in March 2020, 119,645 households (2.5% of all households) were receiving social assistance (*ekonomiskt bistånd*), according to statistics from the National Board of Health and Welfare. The number of households receiving social assistance was only slightly higher in April 2020 (120,573, i.e. 2.5%), reaching a peak at 121,838 households (2.6%) in August 2020. Comparing September–November 2020 with the same months in 2019, the number of households receiving social assistance increased by only about 1 percentage point (National Board of Health and Welfare 2021; SCB 2021).

Concerning the remuneration of the waiting-day reduction for the sickness benefit, the universality of the measure means that the coverage is high. Still, take-up is likely to be lower than 100% given that remuneration is not provided automatically. People need to be aware of this new measure and must apply for remuneration themselves, which probably creates a gap between the number of eligible people and the number of recipients. Other topics of concern are timing and level of the remuneration. The increased workload of the responsible authority resulted in long delays in expediting sickness benefits. The flat-rate design of the remuneration also means that a large proportion of the workforce receives a lower amount of money in remuneration than the amount deducted from their salary by the employer.

There are no statistics on the take-up of temporary parental leave benefits due to the closure of childcare facilities or schools during the pandemic. Given that pre-schools and schools in general were kept open, the numbers are probably low. A short report from *Försäkringskassan* (2020) notes that this benefit extension of temporary parental leave was paid to only 300 children during the first months of the pandemic. On the other hand, the total number of days with temporary parental benefits has been at a record high because of stricter instructions on when to keep a child at home from school due to illness. Whereas the general instruction previously was that a child who had been at home because of illness could return to school when he/she was well enough to participate in pre-school and school activities, the instructions during the pandemic are that children should be kept at home even with only mild symptoms, and they also need to be free from symptoms for two days before returning to pre-school or school.

### **3. The role of national trade unions**

There are three main trade union confederations in Sweden, comprising different sectors of the occupational structure. *Landsorganisationen* (LO) organizes manual workers and is the largest trade union confederation. The second largest trade union confederation is *Tjänstemännens centralorganisation* (TCO), which organizes mostly non-manual workers. *Sveriges akademikers centralorganisation* (SACO) organizes employees with tertiary education and is the smallest trade union confederation. The balance of membership between the

three confederations has changed in recent years, with SACO growing and LO as well as TCO losing members. The social dialogue in Sweden often involves bipartite collective bargaining between the trade unions and employer organizations, to encourage self-regulation.

The influence of the trade unions on the government's Covid-19 responses is not entirely clear, as consultations with the social partners not only are through formalized circulations of comments but also occur informally and through op ed articles, press-releases of opinion pieces, and research reports.

All the Swedish trade union confederations proposed measures to tackle the social consequences of the pandemic. Most of the proposed measures were eventually implemented by the Government, albeit to varying degrees. LO were particularly positive vis-a-vis the temporary system of job retention, the strengthening of the unemployment benefit system, and the increased resource allocation devoted to welfare services and the educational system.<sup>5</sup>

In our conversations with the social partners, representatives from the major trade union confederations confirm intense contacts between the government and the social partners during the pandemic. These consultations usually included all parties in the Parliament supporting the government (following the January agreement, see below). The social partners seem especially to have influenced decision making in situations where trade unions and the employer were in agreement with the government. In the pandemic response discussions between the social partners and the political parties behind the January agreement, the trade union proposals to make some of the temporary changes in the social protection system permanent were opposed primarily by the Centre Party (*Centerpartiet*) and the Liberal Party (*Liberalerna*). Particularly the suggestion that the temporary benefit increases in unemployment insurance should be made permanent follows a long-standing concern among the trade unions of an erosion of unemployment benefits vis à vis earnings (Ferrarini *et al.* 2012; Bäckman and Nelson 2017).

Some critical remarks were raised by the unions in relation to the government's Covid-19 responses. LO asked for the waiting day in sickness insurance to be abolished altogether. TCO called for a more inclusive temporary system of job retention that would also include the self-employed. SACO considered student life and called for Student Health Services to be given more resources to cope with the effects of the pandemic. In December 2020, the government also allocated an additional €2.5M to increased student socio-psychological welfare, to be distributed via the different regional Student Health Services in Sweden.

Some non-related Covid-19 responses will likely affect the protection of non-standard workers and the self-employed. A reform of Swedish labour law was part of the 73-point January Agreement reached between the Social Democratic and Environmental Party coalition government and parts of the opposition (the

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5. The latter two measures are not covered by this chapter.

Centre Party and the Liberal Party) four months after the September 2018 election (Fritzell and Palme 2019). Faced with a motion of censure, the Government called on the social partners to come to an agreement on the new rules. LO declined to take part in the negotiations, which involved the Council for Negotiations and Collaboration (*Förhandlings- och samverkansrådet*), the Municipality Workers' Union (*Kommunal*), and the Confederation of Swedish Enterprises (*Svenskt näringsliv*). The Council for Negotiations and Collaboration negotiates collective agreements on behalf of 25 trade unions (including SACO and TCO). The Municipality Workers' Union is Sweden's largest trade union active at municipal level and in the county councils.

Agreements were made concerning a new system for security, transition and employment protection, which is now being legally processed by the Government. Employment protection will be relaxed, for example by making it easier to make exceptions to the principle of 'last in first out', while employment transition support will also be made available for those not covered by a collective agreement. To support lifelong learning, adult study support will be available for the entire labour market. Concerning non-standard forms of employment, general fixed term employment (*allmän visstidsanställning*) will be abolished, and replaced with special fixed term employment (*speciell visstidsanställning*). The latter will more quickly be converted to a permanent position than under the current rules.<sup>6</sup> The proposals for new legislation will be submitted for consultation, before being passed on to the parliament. After that, the social partners may sign a new central agreement. LO may be prepared to join this agreement, but not before new negotiations have taken place with the Confederation of Swedish Enterprise.

It should also be noted that the Municipality Workers' Union and the employer organization Swedish Association of Local Authorities and Regions (SALAR) have been key players in reforms to long-term care that have come to the table during the pandemic. The reforms are intended to increase the educational qualifications of staff and the proportion of permanent employees in long-term care services. Currently, close to a quarter of long-term care (LTC) staff are paid by the hour. This a potentially powerful strategy to address the difficulties of workers in non-standard employment.

#### **4. Future perspectives**

There has been no debate about the 2019 Council Recommendation. Given the generally low level of interest in EU policymaking (Tallberg *et al.* 2010) this is perhaps not so surprising. In addition, it is important to recognize that the strong public finances in Sweden made it possible to do 'whatever it takes' to limit the social consequences of the pandemic. The public finances are still in good shape, leaving room for additional reforms and expansion of social protection if necessary.

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6. Fixed term employment is for a maximum of two years, after which it is automatically transformed into permanent employment. Special fixed term employment will be converted into permanent employment after one year.

The reforms to the health care sector, in particular the LTC sector and home care services, announced in the wake of the pandemic and its consequences for mortality among the oldest and frailest, are likely to reduce the non-standard share of total employment in Sweden. Although there is little political opposition to a strengthening of the sector, it is yet to be seen how far-reaching the changes will be.

It is not certain whether some of the temporary measures that have extended the coverage and generosity of the social protection system, also for those in non-standard and self-employment, will be made permanent. Based on our conversations with trade union representatives, permanent changes are controversial and consistently opposed by the parties on the centre-right.

The possibility that some of the temporary Covid-19 changes will be made permanent is probably greater for non-standard workers and the self-employed, but this should not prevent us from also discussing other reform opportunities. Of special interest is the fundamental dilemma of a voluntary state subsidized unemployment insurance. As long as it is voluntary, coverage will likely be lower among those in non-standard forms of employment. Typically, unionization levels are lower in occupations with large shares of non-standard employment contracts. Non-standard employment is also more common among immigrants, who tend to be less likely than natives to join the voluntary part of the insurance (cf. Gschwind 2020), although the system in itself provides selective incentives to join a trade union and receive additional benefits. Although union membership is not necessary for membership of an unemployment insurance fund, the top-up benefits that trade unions provide to their members are beneficial for those who have earnings above the unemployment benefit ceiling. Trade unions also, as long as they are strong, have a number of additional positive effects for non-standard workers, for example in relation to collectively bargained minimum wages (Cronert and Palme 2019).

## Conclusions

There are a number of conclusions to be drawn from the Swedish experience during the Covid-19 pandemic regarding people in non-standard or self-employment. One general conclusion is the fruitfulness, in times of crisis, of a highly universal system of social protection which includes most forms of employment already at baseline. In Sweden, however, it was necessary to make some slight adjustments to existing policies, which passed through the parliament without major political opposition. The strong Swedish economy (including historically low budget deficits) and the seriousness of the pandemic certainly helped the government to make necessary adjustments to policy. Both formal and informal talks and consultations with the social partners also functioned as facilitators.

The social partners were very closely involved in policymaking during the pandemic, particularly helping to avoid policy mistakes (as noted in our conversations with the trade union confederations). When the employers and trade unions were

in agreement, they had a particularly strong influence on the government. The actions of the social partners appear to be of critical importance for the ability of the political parties to form broad coalitions. During the pandemic, the social partners did not appear to be acting as insiders and supporting exclusively policy reforms for their particular members. However, the issue of insider policies (to attract new members) may become more salient in the near future, and particularly in relation to the voluntary character of the earnings-related unemployment benefit. Some of the Covid-19 pandemic measures to increase the inclusiveness of unemployment benefits involved relaxed membership criteria for an unemployment insurance fund (almost all of which are run by the trade unions). In the aftermath of the pandemic, we need to have an informed discussion in Sweden about the possibility of abolishing this salient feature of an otherwise universal Swedish welfare state.

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