



**Brussels, 22 September 2023
(OR. en)**

13175/23

**SOC 622
EMPL 443**

NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Draft Council Conclusions on Social Protection for the self-employed - Approval

1. Delegations will find attached a set of draft Council Conclusions on Social Protection for the Self-Employed, prepared by the Presidency.
2. The draft Conclusions were discussed during three meetings of the Social Questions Working Party and were subject to an informal written consultation of delegations (doc. 12993/23).
3. The text presented in Annex reflects the text agreed by delegations through that informal written consultation, with the only difference being the paragraphs numbers, which have been arranged in sequential order.
4. The Committee is invited to:
 - a) confirm the agreement on the text of the draft Conclusions as set out in the Annex; and
 - b) forward the attached draft Conclusions to the meeting of the Council (EPSCO) on 9 October 2023 for approval.

Social Protection for the Self-Employed

Draft Council Conclusions

TAKING INTO CONSIDERATION THAT:

1. On 8 November 2019, the Council adopted the Recommendation on access to social protection for workers and the self-employed¹ (hereinafter ‘the Recommendation’).
2. The Recommendation contributes to the implementation of principle 12 of the European Pillar of Social Rights (EPSR), jointly proclaimed by the European Parliament, the Council and the Commission in 2017, which provides that, regardless of the type and duration of their employment relationship, all workers and, under comparable conditions, the self-employed, have the right to adequate social protection.
3. The European context following the adoption of the Recommendation has been firstly marked by the COVID-19 pandemic, which began in 2020. The pandemic had a strong economic and social impact, but due to very strong and coordinated policy responses at both European and national level (including increased coverage, exceptional support measures and expenditure), social protection systems helped people to weather the COVID-19 crisis without more substantial increases in poverty risks or income inequalities.

¹ OJ C 387, 15.11.2019, p. 1.

4. Secondly, the social and economic consequences of the Russian war of aggression against Ukraine launched in 2022 are other elements of the context in which the implementation of the Recommendation can be assessed. This war, like all crises, most severely affects the most vulnerable groups and reinforces the need to have in place social policies that help to reduce the aforementioned negative effects.
5. In 2021, the Commission presented the European Pillar of Social Rights Action Plan, seeking to contribute to the implementation of the EPSR principles.
6. The EPSR Action Plan new headline EU targets to be achieved by 2030 were welcomed by the EU leaders in the Porto Declaration and at the June 2021 European Council meeting.
7. Section 18 of the Recommendation provides that *‘by 15 November 2020, the Commission should, jointly with the **Social Protection Committee**, establish a monitoring framework and develop agreed common quantitative and qualitative indicators to assess the implementation of this Recommendation, enabling its review’*.
8. The monitoring framework for assessing progress towards the key objectives of the Recommendation prepared by the Social Protection Committee in October 2020 includes indicators to measure formal coverage, effective coverage and benefit adequacy for all types of workers in relevant branches of social protection. It also includes labour market indicators to measure the diversity of labour market statuses and indicators on the rules governing entitlements and contributions. It also indicates that further improvements are foreseen to better monitor access to social protection for workers and for the self-employed across EU Member States.

9. In section 19 of the Recommendation, Member States were invited to submit a national plan by mid-May 2021 setting out the corresponding measures to implement the principles of the Recommendation. Moreover, progress made in the implementation of those plans should be discussed in the context of the multilateral surveillance tools in line with the European Semester and the Open Method of Coordination for Social Protection and Social Inclusion.
10. A first overview of the national plans submitted by Member States was included in the 2021 Annual Report of the Social Protection Committee and the 2022 Joint Employment Report.
11. The Commission report on the implementation of the Council Recommendation on access to social protection for workers and the self-employed² (hereinafter ‘the Commission Report’) indicates that the ambition level varies significantly between Member States, reflecting national circumstances and preferences. It further concludes that many differences in access to social protection still exist.

². COM/2023/43 final, Report from the Commission to the Council on the implementation of the Council Recommendation on access to social protection for workers and the self-employed, 31.1.2023.

RECOGNISING THAT:

12. Member States, where appropriate, are planning or already carrying out structural reforms aimed at implementing the Recommendation, often with a specific focus on improving the situation of the self-employed.
13. Some groups are more likely to lack protection than others, such as non-standard workers and the self-employed. Without prejudice to the provisions of the Council Recommendation to close gaps for all workers and the self-employed, the present conclusions focus on the self-employed as a group that in many Member States faces large gaps in protection.³
14. In 2022,⁴ there were 27.7 million people in self-employment in the EU, constituting 13.7% of the population in employment. 18.9 million of those self-employed people were solo self-employed, i.e. without employees. Moreover, around 3.3 million of them had only one (or a single dominant) client, including around 770 000 for whom this client defined their working hours.

3. COM/2023/43 final, Report from the Commission to the Council on the implementation of the Council Recommendation on access to social protection for workers and the self-employed, 31.1.2023, “Key Findings” (p. 2 and 3)

4. EU-Labour force Survey 2022, Eurostat.

15. As stated in the Commission Report, in more than half of the Member States the self-employed were not covered by all branches of social protection in 2022. According to the information provided by Member States, more than 15 million self-employed people in the EU do not have access to unemployment benefits in the event of cessation of activities⁵.
16. The voluntary access of the self-employed persons to social protection systems is in line with the Council Recommendation, however data in the Commission report indicate that in those Member States where participation in social protection schemes is voluntary for the self-employed, the take-up rates in some of the schemes are low.
17. In some of the Member States, the rules governing entitlements and contributions, as referred to in point 9 of the Recommendation, work to the disadvantage of the self-employed, preventing them to receive effective and adequate coverage.⁶
18. The Commission Report confirms that, in many Member States, social transfers are essential in reducing the risk of poverty and that measures to ensure adequate access to social protection can have a positive impact on the situation of the self-employed.⁷
19. Transparency regarding information provided by public administrations on access to social protection is essential due to the complexity of requirements for accessing benefits, that most severely affect those in non-standard forms of employment and the self-employed.⁸

5. COM/2023/43 final, Report from the Commission to the Council on the implementation of the Council Recommendation on access to social protection for workers and the self-employed (data based on information provided by 12 out of 13 Member States).

6. COM/2023/43 final, Report from the Commission to the Council on the implementation of the Council Recommendation on access to social protection for workers and the self-employed, 31.1.2023, Point 2.3.1 Gaps in Effective coverage (p. 15 and 16).

7. COM/2023/43 final, Report from the Commission to the Council on the implementation of the Council Recommendation on access to social protection for workers and the self-employed, 31.1.2023, Point 2.4.1 Gaps in Adequacy (p. 19 and 20).

8. COM/2023/43 final, Report from the Commission to the Council on the implementation of the Council Recommendation on access to social protection for workers and the self-employed, 31.1.2023, Point 2.5.1 Transparency – Access to information (p. 22 - 24).

STRESSING THAT:

20. According to the Commission Report, *‘the overall level of ambition in implementing the Recommendation varies significantly and, with a few exceptions, most Member States do not aim to address all existing gaps in access to social protection. Further implementation efforts are needed to close existing gaps and the social and economic consequences of the Russian war of aggression against Ukraine and the resulting deepened energy crisis intensify the urgency to act.’*
21. Among the reforms already carried out or planned by Member States to protect the self-employed, those providing access to benefits in respect of accidents at work and occupational diseases, unemployment or cessation of activity benefits, disability benefits and pensions can be highlighted.⁹
22. According to the Commission Report, in their national implementation plans, around half of the Member States undertook or announced measures to improve the adequacy of social protection schemes, notably with regard to pensions for the self-employed.¹⁰

⁹. COM/2023/43 final, Report from the Commission to the Council on the implementation of the Council Recommendation on access to social protection for workers and the self-employed, 31.1.2023.

¹⁰. COM/2023/43 final, Report from the Commission to the Council on the implementation of the Council Recommendation on access to social protection for workers and the self-employed, 31.1.2023 – Key Findings (p.2).

23. Furthermore, many Member States have adopted measures relating to the formal and effective coverage of certain groups, which usually have limited access to social protection, designed to respond to needs arising during the COVID-19 crisis.¹¹
24. The Recovery and Resilience Plans of a considerable number of Member States include reforms and investments to enhance access to social protection, such as measures to ensure transparency, adequacy, effective access and formal access.¹²
25. Eurostat data shows that the self-employed are at a higher risk of poverty than workers in standard forms of employment. This is especially the case for the solo self-employed. As a result, social transfers are even more crucial in reducing the risk of poverty among the self-employed.
26. The social protection of the self-employed is particularly relevant in the current process of the transformation of ways of working. Nowadays, significant numbers of people combine dependent employment and self-employment or switch between them. Cross-border mobility in case of telework and platform work may pose challenges for the self-employed that need to be addressed.

^{11.} Joint Employment Report 2022 As adopted by the Council on 14 March 2022 and COM/2023/43 final, Report from the Commission to the Council on the implementation of the Council Recommendation on access to social protection for workers and the self-employed, 31.1.2023.

^{12.} COM/2023/43 final, Report from the Commission to the Council on the implementation of the Council Recommendation on access to social protection for workers and the self-employed, 31.1.2023. ANNEX: Main features of the national implementation plans (NIPs) on access to social protection (and update).

27. While taking into account national circumstances and specificities, another aspect which may deserve attention is the access of the self-employed to complementary social protection schemes.

THE COUNCIL OF THE EUROPEAN UNION INVITES THE MEMBER STATES, IN ACCORDANCE WITH NATIONAL COMPETENCES AND TAKING INTO ACCOUNT NATIONAL CIRCUMSTANCES, TO:

28. Continue carrying out measures of national implementation plans and take further steps to close remaining gaps and ensure the effectiveness of the principles of formal and effective coverage, adequacy and transparency as set out in the Council Recommendation on access to social protection for workers and the self-employed.
29. Adapt, where necessary the rules on governing contributions, on access to benefits and on entitlements to enable effective access to adequate benefits for the self-employed.
30. Address, where appropriate in view of national circumstances, existing gaps in national schemes regarding the access of the self-employed to social protection, especially in branches where the largest gaps exist, such as unemployment benefits, sickness benefits, accidents at work and occupational disease.

31. Ensure that schemes provide an adequate level of protection to the self-employed in a timely manner and in line with national circumstances, providing the means to maintain a decent standard of living and providing appropriate income replacement, while always preventing them from falling into poverty.
32. Increase, where relevant, the transparency of social protection systems, notably by disseminating information and raising awareness as well as by adopting measures to facilitate the user-friendly digitalisation of social protection, taking into account the specificities of the self-employed, while reducing the digital divide, paying particular attention to groups with low literacy levels (digital, administrative and economic) and persons with disabilities.
33. Reflect on ways to reinforce access to social protection and close remaining gaps, where necessary, also involving social partners and civil society organisations.
34. Ensure adequate collection of data at national level as well as continuous observation of the measures aiming at extending social protection. Support the national participation in the Mutual Information System on Social Protection (MISSOC), including the inclusion of relevant information about the self-employed.

THE COUNCIL OF THE EUROPEAN UNION INVITES THE COMMISSION TO:

35. Disseminate its Report on the implementation of the Recommendation on access to social protection for workers and the self-employed, and promote the debate on the social protection of the self-employed between Member States, the European Social Partners, as well as in relevant international forums.
36. Monitor the implementation of the Council Recommendation in the context of the European Semester and work jointly with Member States on improving the comparability of data across EU Member States.
37. Continue to work comprehensively with Member States and the Social Protection Committee on monitoring and indicators for the effective implementation of the Recommendation as well as to initiate exchanges of good practices and peer reviews with a view to stimulate learning amongst Member States.

THE COUNCIL OF THE EUROPEAN UNION INVITES THE SOCIAL PROTECTION COMMITTEE TO:

38. Continue including in its relevant reports and thematic work the development in the access to social protection of both, workers and the self-employed, in cooperation, where necessary, with other relevant committees.
39. Continue playing its dedicated role in monitoring the implementation of the Council Recommendation in all its dimensions and in line with its mandate.
40. Work in cooperation with the Commission towards further developing the monitoring framework on the access to social protection.
41. Consider the possibility of conducting thematic peer reviews and regular exchanges of information in order to support the effective implementation of the Recommendation.
