THE SOCIAL SECURITY SYSTEMS
FOR SELF-EMPLOYED PEOPLE
IN THE APPLICANT EU COUNTRIES
OF CENTRAL AND EASTERN EUROPE

Bulgaria
Czech Republic
Estonia
Hungary
Latvia
Lithuania
Poland
Romania
Slovak Republic
Slovenia

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The Social Security Systems for Self-employed People in the Applicant EU Countries of Central and Eastern Europe

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PREFACE

In the last few decades, attention for the social protection of self-employed people in the European states has grown. Gradually, the idea has risen that self-employed entrepreneurship and social protection can go hand in hand. Those who undertake their professional activities in an autonomous and individual way can just as well be affected by the risks of life. Often it turns out that, in that situation, a self-made enterprise is insufficient to guarantee a decent existence after the risk has occurred. The countries that in the last decade probably have been most concerned with the social protection for self-employed persons are the Central and Eastern European states. At the end of the twentieth century, after the fall of the Iron Curtain, they were confronted with rising entrepreneurship. Self-employed entrepreneurship was and still is one of the key elements in the transformation of their guided economy to a free market economy. The essential question for many policy makers of Central and Eastern Europe is, consequently, to what extent social protection should have a place in this free economy. Or, to put it slightly differently: is there really a need for the development of a social security for the self-employed, and if so, what should it look like exactly? The challenge can be considered a big one, since most of these countries are confronted for the first time with the rising group of self-employed entrepreneurs. In the past, social security was built around the employee, the person who works in a subordinated service relationship. There was no experience in the field of applying these employee-oriented systems to the group of self-employed persons. A certain amount of literature exists about social security in the countries of Central and Eastern Europe and the reforms that are taking place there. Much information is also to be found with the international and European organizations, which offer “help” with the ongoing transformations in Central and Eastern Europe. The social security of the self-employed person in Central and Eastern European countries is, however, a relatively unexplored domain. One might get the impression that in this region no social safety net is being constructed for the self-employed people. Some people even speak about the “Wild East” when talking about social security in Eastern Europe!

Social security for self-employed people itself has only recently received the necessary attention in the EU countries. Not so very long ago, in the EU, the social security systems for self-employed persons were non-existent or relatively weakly developed compared to what exists for the employees. Even now, there are still many EU states that should make the necessary effort in order to bring the systems for self-employed people to an
acceptable level. When even many EU member states have trouble with the reform of the social protection for self-employed persons, we can indeed wonder how things are organized in our future EU neighbour states from Central and Eastern Europe. Do these states face similar problems with the development of social protection for their self-employed citizens? And in what direction have they directed the social security protection for the self-employed, if they have decided to install a social safety net at all?

In the present publication we aim to give an overview of the existing social security systems for self-employed people in a few Central and Eastern European states. More specifically, we have chosen to limit ourselves to those states with which the EU has started negotiations for a possible entry: Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, the Slovak Republic and Slovenia. For those states, we will investigate how they organise their social security system for self-employed people. For each (future?) member state it is checked for which risks the self-employed person is socially insured and how the social security systems are structured. We will in this way go beyond the systems that were specifically designed for self-employed persons. After all, self-employed often enjoy social security coverage in a universal system or a general professional system. In the latter case as well, it will be investigated what the social protection looks like and whether special arrangements have been made for the group of the self-employed. The description is restricted to the statutory social security systems in place on January 1, 2002. Consequently, no attention is paid to the socio-economical position of the self-employed in these countries, nor do we offer an economical or sociological analysis of the social security for self-employed persons in Central and Eastern Europe. This contribution is restricted to representing the system as it is in accordance to the law. Only in exceptional cases, we will deviate from this pattern. For instance, we will mention, for each state, the share of self-employed people in the (professionally active) population in order to be able to estimate the importance of the group in the economy. If it turns out that the difference between the law in the books and the actual practice of social security is considerable, we will investigate this further, in a limited way. In addition, we will sometimes briefly discuss problems which states experience when applying their social security regulation to self-employed persons. The description is also presenting a picture of the actual social security system. We will not describe the historical development of social security (for self-employed persons) in the country; nor will we pay attention to possible future perspectives. Only when reforms have been approved by the Parliament, they will be included in the overview.
After the description of the national systems, the final chapter will offer a brief comparative analysis. The aim of this analysis is to present the key points in the description of the systems for self-employed persons in Central and Eastern Europe. This chapter will also make a link with the EU countries. In a previous work, the author has already established a description and juridical comparison of social security systems for self-employed people in the EU\(^1\). It can be interesting to see whether, inside and outside of the EU, the European countries meet with similar problems in the development of social security for self-employed persons and, if so, whether the reaction of policy makers to these problems is different or similar.

Moreover, in the description of the countries and the subsequent legal comparison we will only take into account the statutory social security schemes regardless of whether they are compulsory or not. All possible forms of extralegal private (social) insurance are not taken into consideration, for the sake of clear organization.

The description of the countries is based on a uniform structure. This has been developed within the framework of the questionnaire that has been sent to the different national contact points. It also served as a basis for the legal comparison, which follows the reports on the countries.

The structure used is as follows: firstly, the social protection of self-employed persons is situated. In this connection, it is investigated how the concept of a self-employed person is defined and how the national system is organized in general. Concerning the latter, it is investigated where in the system the self-employed are to be found, how the self-employed can be distinguished from the other professional groups and what the personal scope of application of the systems involved looks like. Then, the administrative and financial organization of the system(s) is investigated. Finally, the risks are discussed (social security benefits): old age and survivor’s pensions, the other income-replacing benefits (incapacity for work and unemployment) and the cost-compensating benefits (health care and family benefits).

In the “conceptual” part it is investigated whether a general concept of a self-employed person exists in social security law. This question actually aims at clarifying who we should have in mind when we speak about a “self-employed person”. This does not necessarily concern the description of the personal scope of application of a system. The latter only indicates who is covered by the application of a certain established system. This seldom coincides with the concept of a self-employed person as such, because the systems are often built around specific professional groups and hence do not always cover the group of self-employed people in general. As we will see further on, some systems built around specific professional groups are organized in a categorical way or (some) self-employed persons are part of a more general professional or resident system. In the first case, the concept of self-employed person is the cover term for all specific professional groups; in the second case, the category of self-employed persons can be distinguished from the other socially insured categories on the basis of the concept description.

An important section is the investigation into the underlying systematics of the social protection of the self-employed person. In this connection it is checked how social security is built up for self-employed persons in the member states. Do they have their own systems, are they part of more general professional or universal systems, or is there a mixture of both? This and other structural questions are asked in the section dealing with the structure of the social security system. In other words, it is not only checked which specific systems for self-employed persons there are. More generally, it is investigated how the self-employed person is insured against the social security risks, and this across the different existing systems. Only after we have gained insight into the structure of social protection, the eventual social security coverage can be better placed in its context. During the discussion of the system, some non-juridical information will be available where relevant, such as the problems that states are confronted with in the development of social security for the self-employed person, the potential gap between the legislation in the books and the application of it in practise, the share of self-employed people in the (professional) population, etc.

During the discussion of the personal scope of application, we will investigate per system which persons are covered by it. For the more general systems that cover the whole (professional) population, we will investigate in which situations the self-employed are treated separately and how the professional group is defined in these cases. Here, some findings on how the states make the delineation between employees and self-
employed people will be developed as well. Moreover, it will be investigated what happens if one and the same person pursues professional activities of a different nature. Is one forced to become a member of one system or is there an insurance duty regarding several systems? Finally, we will have a brief look at the situation of the helping spouse of a self-employed person. It will be investigated whether the person concerned is obliged to insure him/herself as an employee or as a self-employed person, or if there is a separate status for him/her.

After having indicated the kind of system in place and having touched upon the delineation of the concept of a self-employed person, the specific social security protection for the self-employed is further explained. Subsequently, the administration, the financing and the risks are dealt with. An overview of these subjects is provided as many times as there are systems in which self-employed people are insured. If the self-employed person is part of a more general system, then for each subject the general regulation is discussed with special attention for the possible specific regulations for the group of self-employed people.

In the description of the administrative structures, attention is paid among other things to the competent ministries and possible other authorities that are responsible for supervision, advice and/or policy development regarding social security; in addition, the institutions that administrate in practice the social security schemes for self-employed persons, are discussed. It will also be investigated to what extent the self-employed are represented in the administrative institutions.

The discussion of financing is limited predominantly to the description of the legal financing structures. We will look at which contributions the self-employed person is obliged to pay in the system, in what way the contributions are collected, how the contribution basis is determined, which possible regulations exist for self-employed people in (financial) need and whether there are special regulations for co-working spouses and for people who combine self-employed activities with other professional activities (e.g. in wage service). We will not go into the financial streams between the systems or into the extent of the state subsidies to specific systems. At the most, the non-juridical elements will be restricted to a general remark on whether or not the system is co-financed by the government. In what way this takes place and what the extent of the financing is will not be further investigated.
The discussion of the social security protection ends with the thematic discussion of the risks. Irrespective of the specific names the social security benefit has in the countries that are discussed, we will work with a predetermined risk pattern that is applied to the different countries. On the basis of this risk structure the specific benefits in the member states are discussed. This methodology is used in order to stay as close as possible to the pre-juridical reality. For instance, a long-term work incapacity benefit may in certain countries be included in the (invalidity) pension scheme; however, in the present book, this issue is dealt with in the section on work incapacity benefits. The aim of the service is, after all, to provide a compensation for loss of income that results from work incapacity.

We will restrict ourselves to the traditional risks; these are, more specifically: the loss of income because of old age, death of the partner, because of work incapacity and because of unemployment; and in addition, the costs that are connected with the raising of children and health care. The care insurance, that is the insurance covering the non-medical costs that can arise from a condition involving the need for care, are for the purpose of this book treated under “health care” or under one of the sections dealing with work incapacity.

The risks are divided into two groups according to their nature: benefits that compensate for the loss of income because of the occurrence of a social risk (income-replacing benefits) and benefits that cover the expense of family care and medical care (cost-compensating benefits). The income-replacing benefits are further divided into “pensions” (which cover the risks of “old age” and “death”) and the “other income-replacing benefits” including risks such as work incapacity and unemployment.

No separate section is devoted to social assistance. Because this part of social security in practice makes little or no distinction between the different professional groups and consequently seldom or never involves a specific regulation for self-employed people, we have chosen not to devote a specific description to it. This does not mean, however, that we will never talk about social assistance. Often social assistance serves as an additional protection for the other income-replacing and cost-compensating benefits. And it is exactly there that one does see specific regulations for the different professional groups, among which the self-employed. In such cases these specific rules will consequently be dealt with. In addition, if special assistance should exist (only) for the group of self-employed people, this will, where necessary, be described as well.
Although the risk of death is not always a structural part of the pension scheme, it is treated together with the risk of old age in this book. Originally, it was our intention to devote a separate chapter to the death benefits; it soon turned out, however, that in most countries these benefits are intertwined with existing pension schemes. In order not to repeat ourselves, we chose to deal with both risks at the same time.

Under the heading “other income-replacing benefits” the benefits regarding unemployment and work incapacity are included. More specifically, it concerns the income-replacing benefits that are awarded in case of termination of the activities because of illness or accident (work incapacity), or because of economical circumstances (unemployment). In this last category are included both the unemployment benefits and more generally all the benefits which support the self-employed person when he/she has been obliged to (temporarily) cease the activities because of unfavourable financial circumstances.

The work incapacity benefits deal with the income-replacing benefits in case of both short-term (sickness) and long-term (invalidity) work incapacity. Maternity and parental benefits are also dealt with here; for a number of countries, however, it was difficult to determine whether the parental benefit is part of the family benefits or the work incapacity benefits. It has been attempted to consider as much as possible the nature of the benefit, especially whether the benefit can be regarded more as an income-replacing than as a cost-compensating benefit. In the first case, the benefit is dealt with together with the other income-replacing benefits; in the second case, together with the cost-compensating benefits. If a separate income-replacing scheme for professional accidents and professional diseases exists for self-employed persons, these benefits will be treated here as well.

In the discussion of the countries the necessary attention is paid to the specificity of the self-employed person. Because of this, we chose among other things to give a repetitive overview in which the differences with the social security protection of the employee are outlined. However, it is not our prior intention to thoroughly compare the social security systems of self-employed persons with those of employees. It is still less our intention to point out the flaws that the systems for self-employed persons could display compared to the systems for employees, or to show that the self-employed, in comparison with employees, still have a long way to go in the area of social security. On the contrary, we will try to have a look at the specific problems, which the states have to deal with when developing a social security protection for the self-employed. In this connection, it can
be interesting to indicate in which respects both professional categories are treated differently and whether an explanation can be found for this fact. Specific regulations will often be connected with the special professional situation of the self-employed, which often entails that these persons, compared to the employees, enjoy a greater (organisational) freedom and consequently are less easy to “control” by social security administrations. It is therefore important to see where this specificity is translated into the organisation of the social security.

In a final chapter some comparative (legal) conclusions will be formulated. This chapter also follows the structure of the description of the countries, in order to keep a certain degree of uniformity. As already mentioned, the legal comparison will also make the link with the social security systems for the self-employed which are in place in the EU member states.

Finally, making a description of the social security systems for all the groups of self-employed people is a complex matter. Often even more than for employees, the social security landscape for self-employed persons is spread over many (small) systems that are built around professional groups, sometimes even around a specific profession. Some of the systems are organized by the government, others by the professional groups themselves with the authorization of the government. The line between public, semi-public and private systems is often unclear. Discussing social security law for the self-employed in Central and Eastern European states has not always turned out to be equally simple. A large part of the information has been made available to me by the national contact points. This is the place to thank them for this. Without these national contact points, this publication would not exist; nor would any insights have been gained in the legal comparison. For support concerning the content I could count on respectively Mrs. Denisata Sacheva-Atanasova (Bulgaria), Prof. dr. Jan Hartl (Czech Republic), dr. Lauri Leppik (Estonia), Prof. dr. József Hajdú (Hungary), Mr. Valdis Zagorsks (Latvia), Prof. dr. Teodoras Medaikis (Lithuania), Prof. dr. Marek Pliszkiewicz and Mrs. Katarzyna Reiter (Poland), Mr. Ionut Constantin Dragan (Romania), Prof. dr. Iveta Radicová (the Slovak Republic) and Prof. dr. Anjuta Buhnov-Škoberne and Mr. Grega Strban (Slovenia). For the editing tasks I could rely on Tom Surdiaicourt. Moreover, he made some remarks on the content more than once. It only added to the end product! Despite the many consultations, the research and checks a description of the different systems for self-employed persons in the Central and Eastern European countries always involves the danger of errors and imprecisions sneaking in. Among other things because of the support from the countless national contact points,
I think I can say that I have avoided this danger as much as possible. If, however, the information which has been made available to me should turn out to be wrongly interpreted or represented, you can always notify me of this by mailing to paul.schoukens@law.kuleuven.ac.be

I hope that with the present publication we may contribute to the continuous development and improvement of the social protection for self-employed persons all over Europe!

Prof. dr. P. Schoukens
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