



Council of the  
European Union

Brussels, 21 March 2018  
(OR. en)

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**Interinstitutional File:**  
**2018/0059 (NLE)**

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SOC 164  
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#### COVER NOTE

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| From:            | Secretary-General of the European Commission,<br>signed by Mr Jordi AYET PUIGARNAU, Director   |
| date of receipt: | 14 March 2018  |
| To:              | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of<br>the European Union   |
| No. Cion doc.:   | SWD(2018) 71 final   |
| Subject:         | COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY<br>OF THE IMPACT ASSESSMENT Accompanying the document Proposal<br>for a Council Recommendation on access to social protection for workers<br>and the self-employed |

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Delegations will find attached document SWD(2018) 71 final.

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Encl.: SWD(2018) 71 final



Brussels, 13.3.2018  
SWD(2018) 71 final

**COMMISSION STAFF WORKING DOCUMENT**  
**EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT**

*Accompanying the document*

**Proposal for a Council Recommendation**  
**on access to social protection for workers and the self-employed**

{COM(2018) 132 final} - {SWD(2018) 70 final}

| <b>Executive Summary Sheet</b>   |
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| <b>Impact Assessment on Council Recommendation on access to social protection for workers and self-employed</b>  |
| <b>A. Need for action</b>  |
| <b>Why? What is the problem being addressed?</b>   |
| <p>Globalisation, technological change, changes in labour market institutions and demographic change have raised the speed of change in European labour markets and made employment opportunities steadily more diverse. Careers are also becoming less linear.</p> <p>Social protection systems were primarily developed for and remain geared towards workers in 'standard employment relations', implying a long-term, full-time work relationship, and in many countries the self-employed were never fully included in social protection systems. There is a growing number of people in non-standard forms of work or in self-employment who, due to their labour market status, are left without sufficient access to social protection.</p> <p>Such gaps increase risks to the welfare of the affected individuals and their families who endure greater economic uncertainty and give rise to new inter- and intra-generational inequalities. Negative consequences are also felt at the aggregate level putting at risk the financial sustainability of the systems and impeding social protection systems to act as automatic stabilisers dampening welfare-reducing economic cycles.</p> |
| <b>What is this initiative expected to achieve?</b>  |
| <p>The general objective of the initiative "Access to social protection for workers and self-employed" is to support all self-employed and non-standard workers people who, due to their contract type or labour market status, are not sufficiently protected by social protection schemes regarding unemployment, sickness, maternity or paternity, accident at work and occupational diseases, disability and old-age. More specifically, the initiative aims at encouraging Member States to allow these groups to</p> <ul style="list-style-type: none"> <li>• adhere to corresponding social protection systems (closing formal coverage gaps),</li> <li>• accrue and take up adequate entitlements (adequate effective coverage) and facilitate transferability of social protection entitlements between schemes,</li> <li>• have transparent information about their social protection entitlements and obligations</li> </ul>  |
| <b>What is the value added of action at the EU level?</b>  |
| <p>The problem of insufficient access to social protection for a growing number of people in the labour market and its negative consequences on social fairness, labour market dynamism and sustainable growth are wide-spread across Member States. While the design and financing of social protection systems is a national competence and some countries are introducing some partial reforms, action at EU level can uphold principle 12 of the European Pillar of Social Rights and ensure that progress is not partial or uneven but is instead secured across groups, social protection branches and Member States, creating a level playing field for economic agents in the internal market. The EU action can avoid short-term distortions of competition and ensure that all Member States move in the same direction at the same time promoting upward convergence, to the benefit the EU economy as a whole.</p>   |
| <b>B. Solutions</b>  |
| <b>What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?</b>  |
| <p>The instruments considered for the initiative are a Council Recommendation, a Directive and an increased focus on social protection in the context of existing instruments, notably the European Semester and Social Open Method of Coordination (OMC). The preferred instrument is a Council Recommendation as it is regarded as the most effective and proportionate instrument at</p>  |

this point in time. The key added value of a Recommendation at this stage is to create momentum supporting and complementing national debates and reforms, guiding Member States' efforts towards upwards convergence. Given the evolving nature of the problem, the ongoing reforms in some Member States and statistical limitations, a Council Recommendation is a more proportionate approach than a Directive. Although a Directive could be more effective from a strictly economic point of view in reaching the objectives of this initiative, consultations imply that it is doubtful that it would gather support from all Member States, making it the less effective instrument overall.

Alongside the baseline scenario (package A), two alternative policy packages are assessed, each combining measures addressing three specific objectives of the initiative.

Package B aims at i) extending formal coverage on a mandatory basis for the non-standard workers and on a voluntary basis for the self-employed, ii) adjusting time thresholds of social protection schemes and ensuring preservation, transferability and aggregation of entitlements in case individuals change job or employment status, iii) ensuring that generic and personalised information about social protection entitlements and obligations is available to the mentioned groups.

Package C aims at i) extending formal coverage on a mandatory basis for the non-standard workers and for the self-employed, ii) adjusting time thresholds of social protection schemes and introducing personal accounts tying social protection entitlements to the individuals and not to contracts, iii) ensuring that generic and personalised information about social protection entitlements and obligations is available to the mentioned groups.

The preferred option (package B) leaves more flexibility in tailoring choices of formal coverage to the self-employed, given the special characteristics of and heterogeneity of this group. Moreover there is a lack of clear consensus among stakeholders, and in particular among representatives of the self-employed, on the approach to formal coverage of the self-employed. Package B represents therefore a good compromise between the different views expressed throughout the consultation process and the EU political objectives set out for this initiative.

#### **Who supports which option?**

The social partner consultation and the open public consultation show rather divergent views. Regarding the policy approach, around 2/3 of the respondents to the open public consultation and all trade unions favour mandatory social protection for every kind of job. On the other side, employers held different views on the options. Some agree that social protection should be mandatory but employees should have the right to choose the form of coverage (public or private) and the freedom of choice for the self-employed was particularly highlighted. Other employers favour voluntary formal coverage to take into account the diversity of forms of employment and the heterogeneity within the self-employed.

Regarding the choice of instrument, some stakeholders (trade unions, representatives of crowd workers, NGOs, some self-governing social insurance bodies, few Member States) would favour a directive setting a minimum of standards. Others (employers, representatives of liberal professions, most Member States) underline the European semester and the Social OMC as vehicles to ensure that gaps in social protection are addressed.

### **C. Impacts of the preferred option**

#### **What are the benefits of the preferred option (if any, otherwise main ones)?**

Key decisions on financing and design of measures are left to the Member States, in line with subsidiarity requirements enshrined in Art. 153 TFEU. These decisions drive the size of benefits. Overall, the number of protected non-standard workers and the self-employed will increase markedly. This entails a reduction in the individualisation of risk, income uncertainty, precariousness and notably a reduction in these groups' risk of poverty. Reducing differences in access to social protection is expected to encourage transitions between contract types and

labour market statuses, promoting labour market dynamism. Reducing the possibility of over-reliance on contracts exempted from social protection contributions is set to create a more level playing field between firms. Stemming the trend of an increasing share of people outside social protection systems avoids weakening their role in the stabilisation of economic cycles and may have positive effects on their fiscal sustainability.

**What are the costs of the preferred option (if any, otherwise main ones)?**

The level of costs and their distribution between public budgets, insurance providers, the newly covered groups and taxpayers also strongly depend on key decisions left to Member States for subsidiarity reasons, including on the organisation of schemes, their financing and the level of protection provided. Direct costs are mainly related to the provision of benefits, with exemplary simulations on the extension of coverage by unemployment and sickness benefits to the self-employed suggesting a limited cost. Indirect costs could result from behavioural changes in response to the increased social protection coverage.

**How will businesses, SMEs and micro-enterprises be affected?**

Businesses could benefit from reduced unfair competition, a possible increase in productivity of individuals in the newly protected forms of employment and from positive effects on labour market dynamism. Depending on financing choices, companies could experience an increase in the cost of managing fluctuations in production in line with some cost increase for non-standard employment and employing self-employed people. The self-employed mostly work with micro enterprises, and much less with SMEs and large firms. Non-standard employees are particularly common in SMEs.

**Will there be significant impacts on national budgets and administrations?**

Costs for the provision of benefits to previously uncovered groups through public social protection systems could arise where, depending on Member States' financing decisions, the net cost to public budgets for the provision of benefits could be reduced to the latter's social protection contributions. To the extent that previously uncovered groups currently rely on safety nets of last resort such as social assistance, expenditure for other parts of the budget could be reduced. Some costs for provision of personalised information would also arise.

**Will there be other significant impacts?**

A simulated extension of coverage of unemployment benefits to the self-employed indicates significant reductions of at-risk-of-poverty for the self-employed and their households. Similar effects (not simulated) can be expected regarding the poverty risk of non-standard workers.

**D. Follow up**

**When will the policy be reviewed?**

The Commission will monitor implementation in the Member States and review the Recommendation in cooperation with the Member States and after consulting the concerned stakeholders, ensuring a sufficiently long period to evaluate the effects of the initiative after it has been fully implemented.