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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Draft Council Conclusions on Social Protection for the self-employed

Delegations will find attached a set of draft Council Conclusions on "Social Protection for the Self-Employed" prepared by the Presidency.

This document will be presented to the members of the Social Questions Working Party on 6 July 2023.

Social Protection for the Self-Employed**Draft Council Conclusions****TAKING INTO CONSIDERATION THAT:**

1. The European Pillar of Social Rights (EPSR), jointly proclaimed by the European Parliament, the Council and the Commission in 2017, provides that, regardless of the type and duration of their employment relationship, all workers and, under comparable conditions, the self-employed, must have access to adequate social protection (principle 12).
2. On 8 November 2019, the Council adopted the Recommendation on access to social protection for workers and the self-employed¹ (hereinafter ‘the Recommendation’), with the aim of implementing principle 12 of the EPSR.
3. The European context following the adoption of the Recommendation is firstly marked by the COVID-19 pandemic, which began in 2020. The pandemic had a strong economic and social impact, but thanks 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.
4. Secondly, the social and economic consequences of the Russian war of aggression against Ukraine launched in 2022 are yet another element of the context in which the implementation of the Recommendation must 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 their effects.

¹ OJ C 387, 15.11.2019, p. 1.

5. In 2021, the Commission presented the European Pillar of Social Rights Action Plan seeking to promote social rights and strengthen the value of the European social dimension in the Union's policies in connection with the environmental and digital transitions and the objectives of the UN 2030 Agenda for Sustainable Development.
6. The EPSR Action Plan was welcomed by the Porto Summit and the Council endorsed the proposed EU targets for 2030.
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. 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.
9. 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. 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. Nevertheless, further improvements are needed in monitoring access to social protection across EU Member States.
11. A first overview of the national plans submitted by all Member States was included in the 2021 Annual Report of the **Social Protection Committee** and the 2022 Joint Employment Report.

12. In January 2023, the Commission published its report on the implementation of the Council Recommendation on access to social protection for workers and the self-employed². The report indicates that the ambition level varies significantly between Member States, reflecting national circumstances and preferences. It further shows that many gaps in access to social protection are likely to remain, in the absence of further measures to close these gaps.

RECOGNISING THAT:

13. Member States 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.
14. While the EPSR calls for adequate protection for all workers and, under comparable conditions, the self-employed (principle 12), some groups are more likely to lack protection than others, such as non-standard workers and the self-employed. Without prejudice to the EPSR and the 2019 Council Recommendation, the present conclusions focus on the self-employed as a group that faces large gaps in protection.
15. In 2022,³ 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.

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.

3. EU-Labour force Survey 2022, Eurostat.

16. 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 activities⁴. Moreover, in a number of Member States, the participation of self-employed people in social protection schemes is only voluntary, typically for sickness, old age and maternity, and the take-up rate is generally 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.
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.
19. The lack of transparency regarding information provided by public administrations on access to social protection and the complexity of requirements for accessing benefits most severely affect those in non-standard forms of employment, including the self-employed, especially among vulnerable groups.

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.’*

4. EU-Labour force Survey 2022, Eurostat (data based on information provided by 12 out of 13 Member States.)

21. Among the reforms carried out 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.
22. 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.
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.
24. In addition, the Recovery and Resilience Plans of many Member States include reforms and investments to enhance access to social protection, such as measures to ensure transparency, adequacy, effective access and formal access.
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. Telework, remote work and platform work and the situation of the self-employed who have exercised their right to cross-border mobility also pose challenges that need to be addressed.
27. Likewise, the evolution of social protection for the self-employed has implications for EU coordination rules on social security legislation that should be addressed and monitored, since this is a further aspect of the principle of effective coverage for people in employment who have exercised their right to mobility.

28. Another aspect which needs to be addressed is the access of the self-employed to complementary employment schemes.
29. As the Social Protection Committee notes, *“the Commission report should trigger debates as to how to address the remaining challenges and the potential supporting role of the EU, in addition to monitoring and fostering exchanges and mutual learning among countries including based on further improvements to the dedicated monitoring framework”*.⁵

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

30. Implement the measures set out in the national implementation plans and take further measures to close remaining gaps and ensure the effectiveness of the principles of formal and effective coverage, adequacy and transparency set out in the Council Recommendation on access to social protection for workers and the self-employed.
31. Establish rules on governing contributions, on access to benefits and on entitlements that ensure effective access to adequate benefits for the self-employed.
32. Address 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 and pensions.
33. 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.

⁵ Background note (E-195) – Discussion in the Social Protection Committee (16 May 2022) on the review of implementation of the 2019 Council Recommendation on access to social protection for workers and the self-employed.

34. Increase the transparency of social protection systems, notably by adopting measures to facilitate the digitalisation of social protection for the self-employed, taking into account their specificities, while reducing the digital divide, paying particular attention to groups with low literacy levels (digital, administrative and economic) and people with disabilities.
35. Disseminate the Commission Report on the implementation of the Recommendation, initiate a public debate at national level on the conclusions of the report and reflect on ways to reinforce access to social protection and close remaining gaps, also involving social partners and civil society organisations.
36. Ensure better collection of data at national level as well as monitoring 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.
37. Address the issue of bogus self-employment in order to ensure the rights of workers are respected and to prevent the segmentation of the labour market.

THE COUNCIL OF THE EUROPEAN UNION INVITES THE COMMISSION TO:

38. 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 people in non-standard forms of employment and of the self-employed between Member States as well as in various international forums.
39. Reinforce the monitoring of the implementation of the Council Recommendation in the context of the European Semester.
40. Work comprehensively with Member States on monitoring and indicators, and assess the possibility of exchanges of good practices and peer reviews, in order to verify the effective implementation of the Recommendation.

41. Consider the links of this Recommendation with other processes, policies and initiatives (e.g. regulation of working conditions in platform work, determination of legislation applicable to teleworkers, artists' working conditions, pension adequacy, digitalisation of social security systems, regulation of compliance with the Single Digital Gateway Regulation, etc.).
42. Analyse the implications of the evolution of social protection for the self-employed at national level on the coordination of social security systems at EU level. Self-employed workers exercising their right to mobility within the EU must be assured of their full rights.
43. Study the access of the self-employed to complementary employment schemes.

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

44. Continue including in its annual report 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.
45. Continue playing its specific role in monitoring the implementation of the Council Recommendation in all its dimensions.
46. Work in cooperation with the Commission towards further developing the monitoring framework on the access to social protection.
47. Consider the possibility of conducting thematic peer reviews and regular exchanges of information in order to verify the effective implementation of the Recommendation.