

Resolución de 20 de noviembre de 2020, de la Subsecretaría, por la que se convoca proceso selectivo para ingreso, por el sistema general de acceso libre y promoción interna, en el Cuerpo Superior de Técnicos de la Administración de la Seguridad Social.

Segundo ejercicio, prueba de idioma, traducción, 10 de julio de 2021

### Self-employed workers and their social protection

1. The importance of self-employment as a form of employment, its development and the new forms it takes.

The flagship initiative of the Europe 2020 Strategy, entitled 'An Agenda for New Skills and Jobs', acknowledges that self-employment is a major factor in job creation, requiring Member States to eliminate measures that act as disincentives to self-employment.

Self-employment is growing rapidly, adopting a variety of new forms. In 2012, 32.8 million people in the EU were self-employed, and this represented 15% of total employment in the EU. Self-employment is most common in Greece, Italy, Portugal and Romania. It is least common in Luxembourg, Denmark, Estonia and Lithuania(2). The European Parliament resolution of 6 July 2010 stresses that self-employment is becoming more popular, particularly with young people and women and as a transitional arrangement between employment and retirement.

Over the past few decades, there has been a significant change in the self-employed category, which in any case varies widely, depending on the role of the self-employed on the labour market and the nature of their activity. A distinction must also be made in respect of the economically dependent self-employed so as to gain a better insight into the development of self-employed activity, which, in the wake of major social and economic changes, now goes beyond traditionally recognised definitions thereof in the EU Member States.

2. No clear definition of self-employed activity exists at European level

Not only does no universally accepted definition of self-employed activity exist at European level, but the situation is further complicated by the variety of activities falling within this category. According to the ILO definition contained in the 'International Classification by Status in Employment', self-employment jobs are those jobs where the remuneration is directly dependent upon the profits derived from the goods and services produced. Historically, three main categories of self-employed activity can be distinguished: micro enterprises, small enterprises and freelance activity.

According to the literal definition, self-employed workers are those who work more for themselves than for a third party. While this seems perfectly straightforward, self-employed activity in fact encompasses a much wider range of social and economic situations which cannot be treated in the same way.

No definition applicable throughout the European Union currently makes a clear-cut distinction between the genuinely self-employed who work independently and the bogus self-employed. Each authority and individual body applies its own legal and regulatory framework provisions, which may vary depending on their remit or policy area (tax law, social security, business law, employment market, insurance).



No clear definition of economically dependent self-employed activity exists. Only certain European countries have officially recognised an intermediate category falling between self-employed and employees, the main purpose of this being to provide more effective protection for those included in it without, however, assimilating them with employees.

### 3. Social security for self-employed workers: an overview of the problem

The development of sole trading raises a certain number of problems in regard to labour rights and welfare protection for self-employed workers. Traditional social security systems in Europe were designed to protect wage earners and geared in part to this, which is still largely the case.

↳ Adjusting them to suit self-employed workers is difficult therefore.

The policy of EU Member States towards self-employed workers can be summed up as follows: self-employed workers are discriminated against and/or are less well protected in some countries, owing to higher social security contributions, or conversely, to lower social security contributions which give a lower level of social security insurance. Denmark is probably one of the best exceptions to this, with the self-employed having the same rights as wage earners(6).

Policy on social security for the self-employed is complicated by the fact that, as already mentioned, the self-employed form a very mixed group. As a consequence, social security measures applied to one part of the group may be irrational and unacceptable to another part. The term self-employed workers applies equally to people well able to take care of themselves or professionals in certain sectors with a high income, as it does to people who are reliant on one customer for their work or for whom they provide services or people whose work is no different from that of a wage earner. In the former case, the social security measures applied to wage earners may be excessive and unacceptable, while in the latter the danger is that wage earners would not be protected sufficiently against social risks.

### 4. Abuse of self-employment status

The ILO has given prior warning that some forms of self-employment may be subject to abuse whereby workers' rights and rights under the EU normally guaranteed by labour relations are ignored. This abuse takes various forms, ranging from social security contributions fraud, tax dodging and circumventing labour laws, to undeclared work. This seriously distorts competition and harms genuine self-employed workers, microenterprises and SMEs.

Self-employed workers have the right to decide freely to work as self-employed, but they must be told that they may lose some welfare protection in so doing. There is a problem which should be noted: the increasingly frequent appearance of 'false' self-employed workers, who are often forced by their employers to work under wretched conditions. The European Parliament's resolution of 6 July 2010, which stresses that all workers should be guaranteed basic entitlements, irrespective of their status, needs therefore to be reiterated.

### 5. Worse social security entitlements for self-employed workers

In many countries self-employed workers are only partially covered by the pension system. Although this can make sense in the case of professionals whose incomes are high and who are capable of looking after themselves, the same cannot be said of economically dependent self-employed workers or false self-employed workers. In their case, partial coverage puts them

at risk of poverty in old age because their low pension contributions will equate to a small retirement pension. This is also true of invalidity pensions.

Self-employed workers are also less protected when it comes to maternity and paternity. They still do not have adequate rights to maternity and paternity leave and other related rights (in Cyprus, the Netherlands, the United Kingdom and Poland for example)(7). In this case, special efforts should be made to guarantee the social protection of self-employed workers. Recent studies and analyses(8) have underscored the need to ensure that the maternity/paternity entitlements of self-employed workers are brought into line with those enjoyed by employees.

Protection for self-employed workers is even worse when it comes to unemployment. Unemployment benefits are mainly for employees. Only certain countries with well-developed social security systems offer coverage to self-employed workers.