

# Covid-19 and Self-employment: emergency measures and unsolved challenges

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## Abstract

The COVID-19 pandemic is having a profound impact on the present world of work and will probably characterize any future debate regarding labour law. The crisis is throwing millions of people across the globe out of employment and high resonance is paid to European governments' emergency measures to cope with this exogenous catastrophe. Public interventions are driven to protect subordinate workers and their incomes or to support self-employed workers highly affected by lockdown measures. The emergency and temporary measures for this latter group of workers are different from Country to Country, although similar patterns can be identified, varying from the extension of social security coverage to short-term support schemes. Their effectiveness is currently under discussion, alongside some concerns about the future of self-employed workers are still pending.

**Keyword:** COVID-19; Self-employed; Social security; Short-term support schemes; Eligibility criteria.

## 1. Introduction

COVID-19 has been classified as an exogenous crisis, very different from any previous crisis that we suffered in recent years.

Those crises were endogenous. They were driven by economic and financial phenomenon, such as the 2008 crisis, or by political events, namely hostilities and wars. Due

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to their nature, they were, in certain terms, predictable, and Countries had tools and regulations to cope with them or at least diminish their impact on their economy.

On the contrary, Coronavirus pandemic hit most Countries without any notice, having a generalized and substantial impact on their healthcare system, their economy and domestic labour market. This pandemic can be, without doubts, classified as the “*worst global crisis since the Second World War*”<sup>1</sup>.

The immediate priority has been inevitably and correctly on public health, trying to contain virus spread and reduce the loss of human lives. Social distancing and general lockdowns, seen as the most effective solution to slow the pandemic, became part of everyday life with implicit repercussions on our globalized economy and labour market. These impacts, still in progress, requested emergency actions aimed at giving relief to business closures, hit by travel restrictions, catastrophic losses and other containment measures. Since the beginning of March, more than 3 billion workers<sup>2</sup> were affected by COVID-19 crisis, being impossible for them to work or experiencing dramatic and unprecedented alterations in their methods of work. Supply chains registered disruptions and decrease in demands. The manufacturing sector suffered from lockdown measures while the touristic and service sectors were hit by social distancing and movement restrictions.

However, even if the shock to the labour market was globally distributed, the impact on workers was not uniform. Healthcare workers and workers employed in essential services (groceries, farms, logistic services) increased their workload and working hours, together with the risk of contracting the infection in their workplace. Farming workers were seen as pivotal in granting food supply to groceries and large supermarket chains; not a secondary task seen social hysteria in the first days of pandemic. Simultaneously, many workers experienced working hours reduction, self-quarantine, wage cuts and layoffs due to business closures or reinvented their way of working through remote-work or telework<sup>3</sup>.

Other vulnerable workers, such as self-employed and non-standard employees, were hit more than others, due to their traditional lower social protection compared to the one provided to employees. In fact, self-employed workers are usually not eligible, in the majority of European Countries, to sickness pay, unemployment benefit or income protection schemes, such as employment retentions ones widely adopted for subordinate workers.

Governments around the world, aware of this internal unbalance in their labour markets, have responded differently to the COVID-19 pandemic, following similar pattern or providing different and innovative measures to support self-employed workers.

The research purpose of this essay aims at understanding the emergency measures for self-employed workers taken in response to COVID-19. The research will have a European perspective looking at domestic interventions adopted by European Countries to support this group of workers. Pivotal will be the evaluation of the different national responses and the assessment of common pattern and innovative measures. From this analysis will be possible to assess that the lack of social protection and the absence of already existing

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<sup>1</sup> ILO, *ILO Monitor: Covid-19 and the world of work. Second edition. Update estimates and analysis*, 2020, 2.

<sup>2</sup> ILO, *ILO Monitor: Covid-19 and the world of work. Second edition. Update estimates and analysis*, 2020.

<sup>3</sup> *Ibid.*

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provision for self-employed created a huge gap in terms of quick and effective response against the pandemic and is, still, one of the principal problems and threat for these workers.

## 2. Self-employed: the most affected and the less protected.

Since the first cases in Europe, European Governments and public authorities have been very active in responding to the Covid-19 pandemic and carrying out “a really hard and unpleasant task: to create rules for an unprecedented crisis that requires urgent and effective measures”<sup>4</sup>. Their intervention tried to cover almost every worker and was addressed to face working and social aspects related to the disruptions caused by the virus spread. Several Governments, such as Italy<sup>5</sup> or Austria<sup>6</sup>, were interested in avoiding layoffs, unemployment and income reduction due to business closures and the decrease in operations. Other Countries, i.e. Finland or Czech Republic, were more involved in granting social benefits, parental leaves and sick leaves in case of illness or compulsory self-quarantine<sup>7</sup>.

Subordinate workers, the traditional recipients of labour law and social security, received prompt protection at the adaptation of already existing measures, such as employment retention schemes or sickness benefits. All of these measures were foregone for other reasons, i.e. economic downturn, and could easily be adapted to Covid-19 pandemic even if this reason was not included within the eligibility options. The rapidity of this adaptation was crucial in facing the catastrophic impact of the virus, relieving salaried workers from the obligation of being home for working hours reductions and impeding redundancies.

On the contrary, Self-employed workers are normally excluded from most of these measures or suffer a lack of coverage in terms of social security<sup>8</sup>. Referring to the above-mentioned measures and in a normal situation, self-employed workers are generally excluded from employment retention schemes, sickness and unemployment benefits. In fact, this category of workers is normally reputed less protected than salaried one; a lower protection due to their “heterogeneity in terms of needs, priorities and contributory capacities, as well as the volatility of their income, the ineffectiveness of voluntary schemes, the lack of compliance and enforcement and the absence of an employer to share the burden of contributing to social security”<sup>9</sup>.

Nowadays, more than 14% of European workforce is composed by self-employed workers. To this highly heterogeneous group belong self-employed workers with employees, specialized professionals, own-account self-employed and the emerging phenomenon of gig-

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<sup>4</sup> Carvalho Martins D., *COVID-19 and Labour Law: Portugal*, in *Italian Labour Law e-Journal*, Vol. 13, 2020, 1.

<sup>5</sup> Gaglione C., Purificato I., Rymkevich O. P., *Covid-19 and Labour Law: Italy*, in *Italian Labour Law e-Journal*, Vol. 13, 2020. See also Biasi M., *Covid-19 and Labour Law in Italy*, in *European Labour Law Journal*, 2020, 1-8.

<sup>6</sup> Risak M., *COVID-19 and Labour Law: Austria*, in *Italian Labour Law e-Journal*, Vol. 13, 2020, 2.

<sup>7</sup> Rosin A., *COVID-19 and Labour Law: Finland*, in *Italian Labour Law e-Journal*, Vol. 13, 2020, 1.

<sup>8</sup> For a comment to the self-employed situation in the field of social security please refer to Spasova S., Wilkens M., *The social situation of the self-employed in Europe: labour market issues and social protection*, in Vanhercke B., Ghailani D., Sabato S. (eds.), *Social policy in the European Union: state of play 2018*, 2018, 102.

<sup>9</sup> Behrendt C., Nguyen Q. A., *Innovative approaches for ensuring universal social protection for the future of work*, *ILO Research Paper Series*, 2018, 15-16.

workers. This heterogeneity highlights one of the implicit problems of this group: the complexity in understanding them and the conflicting needs of the self-employed workforce. Though some may consider traditionally independent workers to be financially stable, owning their own businesses and the means of production, the current labour market depiction paints a very different picture. In fact, a quarter of the European self-employed workforce, namely vulnerable and concealed self-employed, is in a situation characterised by economic dependence, late payments, low levels of autonomy, financial vulnerability and a greater risk of ending up in social exclusion: not a good scenario even without Covid-19<sup>10</sup>.

Due to this lower level of protection and economic instability, self-employed workers can be defined, without any doubt, as the hardest hit by Covid-19 lockdowns<sup>11</sup>. In fact, according to Eurostat data, 44% of European self-employed workers were employed in the sectors most hit and affected by the lockdown. They were employed in sectors highly affected by social distancing measures and targeted by government-mandated closures, such as constructions, retail trade, craftsmanship and entertainment. Moreover, in these sectors, they suffered more than subordinate workers (37%) due to the physical proximity<sup>12</sup> needed to perform their activity or the impossibility to reconvert themselves thanks to remote work or telework. An example is a plumber that could not perform its daily activity in client's premises (due to social proximity issue) in respect to the possibility to work from home for an administrative employee of a plumbing firm: same sector, different solution and impact.

According to a survey proposed by ACTA, the Italian freelance association, around 47 of interviewed lost more than 1 order due to virus spread<sup>13</sup>. Moreover, six self-employed out of ten believe that they will experience more cancellations and less orders in the future. Another survey, issued by Eurofound, reported that 64% of self-employed respondents "are of the view that their financial situation has deteriorated since the onset of the crisis" and more than 50% think that the situation will be worst over the next three months<sup>14</sup>. Furthermore, 1 tenth of self-employed respondents is worried by the risk of losing home due to income reduction or the fear of experiencing arrears related to their higher level of loans compared to dependent workers<sup>15</sup>.

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<sup>10</sup> Eurofound, *Exploring self-employment in the European Union*, 2017.

<sup>11</sup> Anderson J., *Covid-19: the self-employed are hardest hit and least supported*, 8 April 2020, on Bruegel's website: <https://www.bruegel.org/2020/04/covid-19-the-self-employed-are-hardest-hit-and-least-supported/>

<sup>12</sup> Physical proximity is one of the new concepts directly linked with Covid-19 spread. It defines the closeness between a worker performing a specific activity and a client, by applying a statistic concept, the 0\*NET, elaborated by US Bureau of Labor Statistic. It takes into consideration the skills required to perform the job, the number of interactions with clients, the possibility to work remotely and the exposition to contagion and disease. During Covid-19, Physical proximity became one of the measures to assess the risk levels of various job and was used as a driver to lockdown targeted sectors, such as retail trade sector. However, it has not been applied to essential sectors, such as groceries or agriculture, where the physical proximity is very high. For a deep analysis of the riskiest occupations, related to the US labour market, please refer to the graphs included in Gamio L., *The workers who face the greatest Coronavirus risk*, in *The New York Times*, March 15 2020, 2020, <https://www.nytimes.com/interactive/2020/03/15/business/economy/coronavirus-worker-risk.html>

<sup>13</sup> For further information on the survey please refer to <https://www.actainrete.it/2020/03/03/limpatto-del-coronavirus-sui-freelance-i-risultati-di-un-sondaggio/>

<sup>14</sup> Eurofound, *Living, working a and Covid-19. First findings – April 2020*, 2020, 8.

<sup>15</sup> Eurofound, *Living, working a and Covid-19. First findings – April 2020*, 2020, 9.

Other obstacles lied in the ambiguous situation of gig-economy workers. Although many freelancers could continue to work remotely on online platforms reducing risks related to contagion, many other platform-workers<sup>16</sup>, mainly in the transport sector (ride-hailing and food delivery), continued to perform their activity, granting a strategic service that supported restaurants and local shops during the first stage of the lockdown<sup>17</sup>. An activity that has been performed with the risk of being infected and without the right Personal Protective Equipment (PPE). Due to their implicit working vulnerability and their lack in social security<sup>18</sup>, gig-workers (riders) faced the “only choice of continuing to work with symptoms”<sup>19</sup> instead of losing all their income and risking social deprivation. Moreover, these workers encountered several problems in being eligible for benefits extended to self-employed workers, such as sick paid leave, because of the implicit volatility of their earnings, the flexibility and inconstancy of their working hours (The Netherlands) and the low level of social contribution (Belgium not even request them under a certain threshold).

### 3. Measures and exemptions in European Countries: four patterns of intervention.

In this framework, finding appropriate solutions for self-employed workers should not been seen as an easy task and could not be compared with the protection of salaried workers. It was, and still is, hard even for Countries that have a well-developed system of social security. Certainly, they were “best able to navigate the difficult times, as they had the necessary instrument to react dynamically”<sup>20</sup>, but still they encountered several problems in defining actions and priorities adapted to self-employed workers.

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<sup>16</sup> In this essay, a platform-worker should be defined as a “person selected online from a pool of workers through the intermediation of a platform to perform personally on-demand short-term tasks for different persons or companies in exchange for income”. This definition can be found in Schoukens P., Barrio A., Montebovi S., *The EU social pillar: An answer to the challenge of the social protection of platform workers?*, in *European Journal of Social Security*, 2018, 223. As reported by the authors, this concept is based on Prassl J., *Humans as a Service: the Promise and Perils of Work in the Gig Economy*, 2018.

<sup>17</sup> As reported by Eurofound, in a document assessing the sick pay void for gig-workers, “Deliverance Milano trade union has appealed to the government to provide support for platform workers affected by the virus” and “Deliveroo [platform] has made no attempts to protect its workers from risk associated with delivery”. Please refer to Eurofound, *Coronavirus highlights sick pay void for platform workers*, 19 March 2020.

<sup>18</sup> Platform-workers have a limited access to social security benefits. Many social security systems do not have any provision for them, mainly for the novelty of the phenomenon, the intrinsic difficulty in considering them as salaried workers, the flexibility of their employment and the limited income earned from this task-based activity. Related to the last reason, “most social security systems have thresholds in place to determine entitlement to a number of social security benefits”. These eligibility criteria can exempt platform workers, and in certain case even self-employed workers, from the scope of social security if their work duration or earnings are too low. For further information see Schoukens P, Barrio A., Montebovi S., *Social protection of non-standard workers: the case of platform work*, in Devolder B. (ed.), *The Platform Economy – Legal Status of Online Intermediaries*, 2018, Intersentia, Cambridge, 227-258.

<sup>19</sup> ETUC, *National measures to protect non-standard workers including workers in the platform economy*, in *Covid-19 Watch – ETUC briefing note*, 27 March 2020, 2.

<sup>20</sup> For further information on immediate and social actions taken by government refer to International Social Security Association’s website: <https://ww1.issa.int/news/coronavirus-demands-immediate-social-and-economic-action>

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For less generous Countries, in terms of social security coverage or not used to cover self-employed workers, the intervention was even harder. These Countries faced the initial obstacle of adapting existing systems to new regulations, collecting data on independent workers, register them on agencies records or platforms and evaluate their requests and needs<sup>21</sup>. Italy is certainly an example of a Country that encountered problems in collecting online requests: through INPS website, from the 1<sup>st</sup> of April, more than 3.4 million self-employed workers requested the special income support measures (600 Euros)<sup>22</sup>. The majority of them was devoid of any previous enrollment on INPS portal - due to their participation in pension fund linked to a professional order - and unaware of the exact procedure: a problem that shut down the telematic system of the Italian social security and welfare Institute (INPS).

Apart from the increase in online utilization of social security systems and the involvement in boosting the robustness of their platform services, European Countries had the tough task to implement and provide emergency measures to cope with the disruptive impact of Covid-19. As briefly anticipated, some Countries dedicated their involvement in granting social benefits with the aim of relieving the lockdown effects; others were interested in granting the same level of income with the adoption of cash transfers. In addition, the majority of European Countries adopted a tax deferral without penalties, such as Belgium and France, or a social contribution delay for a certain period without any penalties, as foregone in Luxembourg<sup>23</sup>.

Even if Countries decided to follow different emergency paths in targeting the self-employed, the special and provisional nature of their measures allow a classification of those into four main patterns: extension of coverage and new universal measures, increase in benefits and relaxed eligibility criteria, short-term income support measures, fiscal and social contributions delays and exemptions. All of these measures have been adopted by Countries with different timing, specifically related to the pandemic impact in their territory, and with a mixture of strategies. Some of them, decided to increase social security measures in the beginning and then intervene with income support measures. Other Countries evaluated the need to quickly grant economic resources to workers that could risk facing the pandemic with a dramatic financial situation.

### 3.1. Extension of coverage and new universal measures.

The first one could be defined as the simplest among the four different patterns. In fact, creating new universal measures covering every worker or extending those that are already

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<sup>21</sup> As reported by the International Social Security Association, digital channels played “a crucial role for maintaining customer services during the period of Covid-19 restrictions, and their use has increased significantly”. For further analysis of the digital response of social security systems please refer to ISSA, *Continuity of social security services during COVID-19: a review of country experiences*, 8 May 2020.

<sup>22</sup> Direzione Centrale Studi e Ricerche INPS, *Prime evidenze sui pagamenti connessi al DL Cura Italia n. 18/2020*, in partnership with Banca d'Italia, 27 April 2020, 2020 (italian only).

<sup>23</sup> Please refer to the Centre Commun de la Sécurité Sociale (CSS) – Luxembourg (Social security Institutions): <https://ccss.public.lu/fr/support/faq/independants.html>

in place is straightforward. This is mainly due to the fact that existing provisions need only to be adapted to the peculiar situation of self-employed workers or reworked in order to quickly face the crisis, as done in Ireland. The Irish Government extended the new unemployment scheme, namely the *COVID-19 Pandemic Unemployment Payment*<sup>24</sup>, to employees and self-employed affected by the Coronavirus crisis. It is a weekly payment (350 Euros) for those that were in employment or self-employment before Friday 13 March; self-employed workers can apply if they suffered a cessation of their business due to the crisis and interested in taking any subordinate job available. The amount of the payment depends on the household composition; the higher the number of household member, the higher the unemployment benefit.

Finland, instead, treated self-employed under two different perspectives: health and unemployment. For the first, the Finnish Government adopted an emergency act, under the *2016 Communicable Disease Act*<sup>25</sup>, establishing that a quarantined employee or self-employed is entitled to a 100% daily allowance for the duration of Covid-19 quarantine. This new provision tried to face the social impact of the pandemic and to help workers that were obliged to a prescribed self-isolation in order to check their infection or after being infected. Self-employed workers are covered by an allowance that fully compensate the loss of income suffered during the period of absence from work: this sum is determined on the basis of the independent worker's annual earning<sup>26</sup>. Simultaneously, Finland extended the right to receive unemployment benefits to self-employed workers, normally limited in receiving this provision. Temporarily, "the entrepreneur (regardless of the type of her/his business activity) is eligible for labour market support" if his monthly income is less than 1089.67 Euros and this reduction is caused by COVID-19<sup>27</sup>. It is interesting to note that, contrarily to the Irish provision, the self-employed is not obliged to cease his/her activity to receive this unemployment benefit: a solution that could allow a relaunch of the entrepreneurial activity without losing clients.

In line with Finland and Ireland, the Spanish Government focused its attention on helping self-employed workers that suffered an unexpected cessation of their activity or an income decrease higher than 75% during the first 3 months of the 2020. For those insured under the Régimen Especial de Trabajadores Autónomos (RETA, Social security regime for independent workers) and agricultural non salaried workers, the one-off amount of the subsidy will be based on the 70% of the previous 12 months, as established by art. 17, 3<sup>rd</sup>

<sup>24</sup> <https://www.gov.ie/en/service/be74d3-covid-19-pandemic-unemployment-payment/>. For an analysis of the Irish measures please refer to Mangan D., *COVID-19 and Labour Law: Ireland*, in *Italian Labour Law e-Journal*, Vol. 13, 2020, 3.

<sup>25</sup> The Finnish emergency measures have been adopted under the "Tartuntatautilaki/lag om smittsamma sjukdomar", Act No. 1227/2016, mainly known as Communicable Disease Act. The compulsory self-isolation is prescribed by a physician according to the Section 60 of the Communicable Disease Act. See European Union Agency for Fundamental Rights, *Coronavirus COVID-19 outbreak in the EU – Fundamental Rights Implications: Finland*, 23 March 2020: [https://fra.europa.eu/sites/default/files/fra\\_uploads/finland-report-covid-19-april-2020\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/finland-report-covid-19-april-2020_en.pdf)

<sup>26</sup> Section 82 of the Communicable Disease Act. For more information refer to Kela, the Finnish social security institution:

[https://www.kela.fi/web/en/news-archive/-/asset\\_publisher/IN08GY2nIrZo/content/sickness-allowance-on-account-of-an-infectious-disease-provides-loss-of-income-compensation-for-persons-placed-in-quarantine](https://www.kela.fi/web/en/news-archive/-/asset_publisher/IN08GY2nIrZo/content/sickness-allowance-on-account-of-an-infectious-disease-provides-loss-of-income-compensation-for-persons-placed-in-quarantine)

<sup>27</sup> Rosin A., *COVID-19 and Labour Law: Finland*, in *Italian Labour Law e-Journal*, Vol. 13, 2020, 6.

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section, Real Decreto-ley 8/2020<sup>28</sup>. However, in order to grant this special type of unemployment (or low employment) benefit, self-employed workers should prove their loss or their impossibility to perform their activity.

New Emergency measures were not only confined to labour market support or to grant *ad hoc* sickness allowance. In Italy, the Government was involved in granting social help to low income household and vulnerable workers through food-bonuses. According to the *Protezione Civile* Ordinance n. 658/2020<sup>29</sup>, 400 million were destined to distribute social benefit to avoid social exclusion and the scope of application of this provision is the broadest possible: unemployed, subordinate and self-employed with economic problems and single earners.

### 3.2. Increase in benefits and relaxed eligibility criteria.

A common concern among European Countries regarded the possibility of increasing benefits already available for self-employed workers. This is the second pattern of interventions and many Countries decided to follow this strategy, mainly because seen as cost-effective instead of creating new regulations. Another reason originates from the extended coverage that self-employed workers enjoy in these Countries, being already covered from different social risks, such as unemployment, sickness or generous parental leave.

In order to achieve an effective result, Governments started to increase provisions and relaxing eligibility criteria to broaden out the recipients of social security provisions. One of the benefits that received more attention is the sickness leave for self-employed. For example, in Denmark, self-employed workers will receive a provisional and standardized sick leave since the first day of absence, instead of the traditional two-week waiting period<sup>30</sup>. Like the Danish provision, from the 11 March 2020, Sweden granted a standardized sick pay for 14 days without any qualifying period (no *karensdag*)<sup>31</sup>; the Swedish self-employed will receive 804 SEK, before taxes, for each sick day.

Relaxing eligibility criteria is not only confined to sickness benefit but could also regard unemployment or caring allowances. The former is addressed to help workers who ceased their business and have economic and financial troubles that could undermine their household subsistence. The latter destined to support self-employed workers that could not work to care their children due to the closure of school facilities.

A clear example of relaxed eligibility criteria for unemployment benefits is the German one. German self-employed workers have different possibility to receive an emergency aid to cope with the pandemic situation; the difference lies in the different kind of

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<sup>28</sup> Art. 17, 3<sup>rd</sup> comma, Real Decreto-Ley n. 8/2020, 17 March 2020:

<https://www.boe.es/buscar/act.php?id=BOE-A-2020-3824>

<sup>29</sup> Protezione Civile Ordinance n. 658/2020, 29 March, in Italian Official Gazette n. 85, 30 March 2020.

<sup>30</sup> Soested M, Videbaek Munkholm N., *COVID-19 and Labour Law: Denmark*, in *Italian Labour Law e-Journal*, Vol. 13, 2020, 4.

<sup>31</sup> Please refer to the Covid-19 applicable regulation on Försäkringskassan website (Swedish social insurance agency): <https://www.forsakringskassan.se>

unemployment insurance. Self-employed workers that have voluntarily insured themselves<sup>32</sup> (Opt-in clause) will receive subsidies under *Arbeitslosengeld (ALG I)* with the possibility of still performing their job up to 15 hours per week. For those that are not insured there is a minimum income scheme (*Hartz IV - ALG II*) that is addressed to cover subsistence needs and lasts 6 months<sup>33</sup>. Before Covid-19, the *Hartz IV - ALG II* basic income was granted after a prior assts/means-test: due to the extraordinary crisis and to guarantee a smooth and rapid access the means-test has been cancelled<sup>34</sup>.

Similar to Germany, Sweden decided to decrease eligibility requirements for subordinate workers and self-employed ones. In this Nordic Country, self-employed workers are covered by unemployment as members of tailored benefit fund. Normally, “to apply for an unemployment allowance twelve months membership is required but during the time period March to December 2020 each month shall count as four months, so that the qualification period is reduced to three months”<sup>35</sup>. This provision is seen as necessary to help new self-employed workers that opened their activity in the last part of 2019 but will create conflicts with those independent contractors that started in the first months of 2020 and not fully eligible.

Other Countries, instead of focusing on unemployment benefit, addressed their intervention in mitigating the impact of Covid-19 on daily life, increasing already existing benefits or reworking them<sup>36</sup>. In fact, one of the problems of the services closures concerns schools and caring services. Due to that, workers are obliged of caring their children if those are infected by COVID-19 or at risk of being infected (disabilities). This will obviously reflect in a difficulty to work, having as an implicit consequence the gender balance issue: women more affected than man in caring responsibilities. Czech Republic focused its attention on granting a 60% daily allowance for employees and self-employed workers<sup>37</sup> caring children due to school closures<sup>38</sup> or for children’s disease. This monthly allowance, around 400 CZK

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<sup>32</sup> Sacchi S., Pancaldi F., Arisi C., *The economic Crisis as a Trigger of Convergence? Short-time Work in Italy, Germany and Austria*, in Greve B. (ed.), *The Times They Are Changing? Crisis and The Welfare State*, John Wiley & Sons, Hoboken 2012, 145-146.

<sup>33</sup> <https://www.wir-gruenden-in-deutschland.de/en/corona/emergency-aid-for-self-employed-individuals-micro-and-small-businesses-and-freelancers/#c12065>

<sup>34</sup> ETUC, *National measures to protect non-standard workers including workers in the platform economy*, in *Covid-19 Watch – ETUC briefing note*, 27 March 2020, 3.

<sup>35</sup> Johansson C., Selberg N., *COVID-19 and Labour Law: Sweden*, in *Italian Labour Law e-Journal*, Vol. 13, 2020, 3.

<sup>36</sup> A peculiar case of interest is the maternity leave for self-employed workers in the Republic of San Marino. Even in one of the smallest Country in the world, self-employed workers received an ad-hoc treatment through the extension of specific provisions. Due to COVID-19, the Government supported this group of workers in terms of maternity. According to art. 5 of the Decree 52/2020, pregnant women are obliged to be in a situation of mandatory abstention from work, even if not in the traditional maternity leave period. The indemnity is equal to the 100% of the salary or the income (in case of self-employed workers). In case of end of the emergency prior to the traditional maternity leave period, the pregnant worker will be reinserted in the working premises or could restart to work as self-employed workers. See Battista L., *COVID-19 and Labour Law: Republic of San Marino*, in *Italian Labour Law e-Journal*, 2020, 4.

<sup>37</sup> The programme to support small businesses affected by the virus spread is called Care allowance for the Self-Employed and foregoes 424 CZK per day. Please refer to Government of the Czech Republic press: <https://www.vlada.cz/en/media-centrum/aktualne/benefit-applicants-will-not-have-to-go-to-the-office--government-proposes--also-approves-a-subsidy-programme-for-care-allowance-for-the-self-employed-180655/>

<sup>38</sup> As of 13 March, full-time education in elementary, secondary and tertiary education was cancelled.

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per day, is paid for children younger than 13 years old, while, before COVID-19 the age threshold was 10 years old<sup>39</sup>. A special provision regards children with disabilities with the removal of the age threshold.

### 3.3. Short-term income support measures.

The third pattern is probably the one that stands out the most among the different emergency interventions. Granting a one-off cash transfers to the self-employed and independent workers aimed at providing rapid support to their livelihoods and it is more politically recognizable as public intervention. Due to their provisional nature, this kind of interventions need to be analyzed and differentiated by any other measures that extended unemployment benefits. Firstly, these measures are normally foregone on a lump sum payment basis; but, due to the long duration of the lockdown in almost every European Countries, payments have been prolonged and become recurring ones. In fact, due to the negative effective of Covid-19 on self-employed earnings, Countries decided to pursue the strategy of recurring payments instead of one-off grant: both for the idea of supporting self-employed and bringing them closer to monthly subsidies granted to salaried workers<sup>40</sup>.

Secondly, many Countries decided to differentiate the level of this cash subsidy according to a maximum (comparing the previous earnings of the worker). Other Countries, such as Italy, France or Netherlands, provided a generic payment for every self-employed worker, irrespective of his/her income level.

Starting from the first kind of subsidy, Countries like Denmark and United Kingdom granted a subsidy based on a percentage of the income that has to be replaced. The Danish Ministry of Labour set up a replacement income around the 75% of the worker's earning with a maximum of 23.000 DKK (around 3,100 Euros)<sup>41</sup>; should be noted that the replacement income granted to Danish subordinate workers is higher and its maximum is 30.000 DKK (approx. 4,000 Euros)<sup>42</sup>. This provision, taking into consideration the effects of lockdown, gives three months allowance from March 2020 to June 2020.

Similar to the Danish measure, the British short-term income support is “formally comparable to the Job Retention Scheme” granted to subordinate workers, due to the same priority to be covered: supporting subsistence. The *Self-employed Income Support Scheme* (SISS) has been announced on the 26 of March and provides an 80% of self-employed person's profits granted by the Government for up three months. This amount is capped at £2500

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<sup>39</sup> This provision has been provided under the already existing sickness benefit and long-term attendance allowance for insured self-employed workers. For the pre-Covid-19 sickness benefit scheme refer to: <https://www.cssz.cz/web/en/benefits-provided-under-sickness-insurance>

<sup>40</sup> Anderson J., *Covid-19: the self-employed are hardest hit and least supported*, 8 April 2020:

<https://www.bruegel.org/2020/04/covid-19-the-self-employed-are-hardest-hit-and-least-supported/>

<sup>41</sup> <https://www.copcap.com/covid19-support-package>

<sup>42</sup> This provision for subordinate workers has been set up by a Tripartite Agreement of 14 March 2020, between the Government, the Danish Confederation of Trade Unions (FH) and the Danish Employers' Conferderation (DA), with the purpose of avoiding large-scale redundancies. See Soested M, Videbaek Munkholm N., *COVID-19 and Labour Law: Denmark*, in *Italian Labour Law e-Journal*, Vol. 13, 2020, 2.

per month, paid in one-off payment in June<sup>43</sup>. However, the eligibility criteria created several problems and concerns decreasing the effective coverage of this benefit. In order to receive this grant, the self-employed had to show that he received less than £50,000 in profits in the previous year or averaged over three years and being self-employed for the entire period. The grant will not be provided if the workers earned more than £50,000, if he started a new business as self-employed in 2019 and earned more as subordinate worker during the first part of 2019 or for those that during the three years range changed their working status (from salaried to self-employed and vice versa): due to these criteria, around 40% of self-employed will be uncovered by this support scheme<sup>44</sup>.

Other Countries, as briefly anticipated, provided a fixed monthly payment, equal for well-established self-employed, professional, vulnerable and quasi-employee workers<sup>45</sup>. With the Danish and British measures, they share the disadvantaged comparison with the short-term working scheme for subordinate worker. In the Netherlands, for example, a subordinate artist that normally earns 3,000 Euros will receive a replacement income equal to 2,700 Euros if subordinate worker and, only, 1,500 Euros if self-employed.

Talking about the Netherlands<sup>46</sup>, the financial support granted to self-employed workers is called *Tozoo*, also named by the Dutch Government as a “Temporary bridging measure for self-employed professionals”<sup>47</sup>. At the beginning of the pandemic it was set up for three months (*Tozoo* 1), now extended till the end of August (*Tozoo* 2). It consists in a monthly subsidy fixed at 1,500 Euros (net), irrespectively of the worker’s previous income and without any means-test or viability test. Contrarily to the British situation, the Dutch Government evaluated the possibility that a new self-employed worker started his business in the first months of 2020 or in the last part of 2019. In order to meet the requirements, the self-employed needs to have started the activity before 17 March 2020 and have worked a minimum of 1,125 Euros in the previous year or on an average of 23.5 hours per week if the activity has less than one year since the starting<sup>48</sup>. The *Tozoo* can also be received in the form of a loan for business capital to a maximum of 10,157 Euros with low interest rate; this provision should be a supporting measure to pay orders and suppliers and granting a cascading effect on the domestic value chain.

As the one of the most affected Countries in Europe, Italy tried to face the phenomenon with rapid answers and Decrees, imposing a lockdown of all non-essential commercial activities from March 22<sup>49</sup>. This Lockdown had a major impact on the leading sectors of the

<sup>43</sup> <https://www.gov.uk/guidance/claim-a-grant-through-the-coronavirus-covid-19-self-employment-income-support-scheme>

<sup>44</sup> Hirst D., Ferguson D., Seely A, Sandford M, Wilson W., *Coronavirus: support for businesses*, in *House of Commons Briefing Paper*, 15 May 2020, 15.

<sup>45</sup> These supporting measures are free of charge, so no repayment back required.

<sup>46</sup> Bennaars H., ter Haar B., *COVID-19 and Labour Law: The Netherlands*, *Italian Labour Law e-Journal*, Vol. 13, 2020, 2.

<sup>47</sup> <https://business.gov.nl/subsidy/temporary-bridging-measure-self-employed-professionals-tozo/>

<sup>48</sup> *Ibid.*

<sup>49</sup> The lockdown, extended to the 3<sup>rd</sup> of May, was established by the Decree of the President of the Council of Ministers (DPCM) and was criticized for the list of essential activities and the implicit loopholes. In fact, according to ISTAT, the lockdown provision potentially affected only 1 third of the entire workforce, indicating the weakness of the restrictive measures. For further information see the ISTAT report on March 2020: [https://www.istat.it/it/files/2020/03/Aggiornamento\\_MemoriaAS-1766\\_rev31marzo.pdf](https://www.istat.it/it/files/2020/03/Aggiornamento_MemoriaAS-1766_rev31marzo.pdf)

economy, such as manufacturing, tourism, craftsmanship and blocked exports of *Made in Italy* products around the world.

In order to relieve workers from Coronavirus impact, the Government - through the Legislative Decree No. 18 of 17 March 2020, known as *Cura Italia* – established short term working schemes for subordinate workers and a fixed monthly payment for self-employed workers. For what concerns self-employed, the Title 2 of the L. D. *Cura Italia* grants a special allowance of 600 Euros to self-employed and quasi-subordinate workers. One requirement is the membership to Gestione Separata, an insurance fund held by INPS, or under another special insurance fund (mainly craftsmen and traders). Originally, the short income support subsidy was foregone only for March 2020, but it has been extended for April by the Legislative Decree No. 34, 19 May 2020. According to art. 84, first section, the 600 Euros allowance is extended to already covered self-employed workers (without any new certification required)<sup>50</sup>, while for those that suffered a decrease in income, in respect to the one certified in the beginning of 2019, the payment is increased to 1,000 Euros for May 2020. The procedure is a simplified one: it's based on a personal assessment of the eligibility criteria and checked by the Revenue Agency (*Agenzia delle Entrate*)<sup>51</sup>.

According to INPS data, more than 4 million self-employed workers<sup>52</sup> requested the subsidy, however many critiques have been addressed to the low economic amount of this provision and to the long delays of the payments' release. In fact, after the 20 of May, INPS partially paid half of the claimants, showing a great infrastructure backwardness and inadequacy<sup>53</sup>.

### 3.4. Fiscal and social contributions delays and exemptions.

Mainly addressed to avoid closures due to fiscal and social contribution deadlines, the fourth pattern of measures regards delays and exemption granted to enterprises and self-employed workers. Differently from the sickness benefit and from the unemployment, delays and exemptions have been adopted in almost every European Countries in combination with some of the already anticipated measures.

The major objective of this temporary flexibility granted to self-employed workers is to reduce the immediate economic burden in a period with low earnings. While this priority can

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<sup>50</sup> The L. D. No. 34, 19 May 2020, at the art. 84, eight comma, point c., granted a 600 Euros allowance payment also to self-employed workers that stipulated a contract between 2019 and till the 23<sup>rd</sup> of February and have no contract after that day. The requirements are very soft: being covered by Gestione Separata, having no contract after the 23<sup>rd</sup> of February and having a month of social contribution in the period from 01/01/2019 to 23/02/2020.

<sup>51</sup> <https://www.gazzettaufficiale.it/eli/id/2020/03/17/20G00034/sg>

<sup>52</sup> In the INPS data, entertainment workers and agricultural workers have been merged to self-employed workers. For further information about 600 Euros allowance claimants and their geographical distribution see: [https://www.inps.it/docallegatiNP/Mig/Dati\\_analisi\\_bilanci/Studi\\_e\\_analisi/Prime\\_evidenze\\_sui\\_pagamenti\\_FINALE\\_26-04-20.pdf](https://www.inps.it/docallegatiNP/Mig/Dati_analisi_bilanci/Studi_e_analisi/Prime_evidenze_sui_pagamenti_FINALE_26-04-20.pdf)

<sup>53</sup> Strong critiques have been made by the Italian Confederation of Professionals (CONFPROFESSIONI) about the inadequacy of the INPS informatic infrastructure to deal with the extraordinary number of claimants. According to them it will be translated in a delay in the payments: a fulfilled prophecy. See: <http://www.confprofessioni.eu/news/articolo/grave-linadeguatezza-dellinps>

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be found in every European Country, the method adopted is quite different. Several Countries adopted a total exemption from contribution obligation, shouldering the worker's social contribution. Others preferred to focus on a deferral in payments without any interests, with the idea of granting resources to the welfare system even if delayed.

Spain adopted the first kind of measure, giving the total exemption from social contribution, during the period in which the self-employed is covered by subsidies. The art. 24 of the Real Decreto-Ley 8/2020, due to force majeure, exempts self-employed workers and companies from the social security contribution or granting an interest-free moratorium for those not affected from Lockdown measures (art. 34 Real Decreto-Ley 8/2020).

Luxembourg, instead, followed the deferral strategy for social security contributions. The Government established that the deferral is granted without any requests and with no interests added<sup>54</sup>. Moreover, any pecuniary collection related to previous contributions has been stopped during the pandemic. Belgian Government adopted a similar provision granting a one-year postponement from payment of social security contributions if the self-employed workers can prove a demonstrable decrease in operations due to Covid-19<sup>55</sup>.

A deferral system in combination with a recalculation of the contributions is the French measure to support self-employed workers that are facing income volatility. In order to help these workers, the Government directly postpone the contribution burden expected in March and evaluated three different opportunities. Firstly, the self-employed workers will suffer no penalties in the delay of its payment; secondly, he can estimate a lower level of contribution based on a decrease in earnings in the first period of 2020; lastly, the worker may request a support to partially pay taxes and contributions<sup>56</sup>.

#### 4. Unsolved challenges.

Even if there are differences among the kinds of intervention, the majority of European Countries adopted a mixture of patterns: extending some benefits or introducing new ones, granting exemptions or supporting income levels<sup>57</sup>.

However, these patterns of measure have been adopted in an emergency situation and suffer from this intrinsic provisional nature. One of the major concerns about these measures is the so called '*sunset clause*': their effect will directly expire at the end of the emergency. This

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<sup>54</sup> <https://ccss.public.lu/fr/support/faq/independants.html>

<sup>55</sup> For the Belgian deferral, please refer to: <https://www.inasti.be/fr/news/difficultes-suite-au-coronavirus>

<sup>56</sup> Please refer to the French Government interventions:

[https://www.gouvernement.fr/sites/default/files/contenu/piece-jointe/2020/03/brochure\\_fiches\\_pratiques\\_sur\\_les\\_mesures\\_de\\_soutien.pdf](https://www.gouvernement.fr/sites/default/files/contenu/piece-jointe/2020/03/brochure_fiches_pratiques_sur_les_mesures_de_soutien.pdf)

<sup>57</sup> In reference to support income levels, European Commission tried to grant conspicuous funds for European workers through the SURE. The SURE is a temporary European economic tool that tries to support, through funding, employment level in this disruptive scenario caused by COVID-19. The Regulation n. 2020/672/UE tries to mitigate COVID-19 impact with an investment of 1 billion Euros to Member States to support short term working schemes and similar programs for self-employed workers. One of the critiques that could be made to the SURE Regulation is that it leaves the floor to Countries' intervention without giving clear guidelines or stressing practices that have been positively experienced in other Member States.

is the case in Germany<sup>58</sup> and United Kingdom<sup>59</sup> and self-employed will risk being uncovered against the ‘re-starting’ period with low support or being newly affected by new virus outbreaks. So, due to this provisional nature, self-employed will risk being again unprotected against a new return of the pandemic and new lockdowns. This will not be problematic for generous social security regimes that can easily re-extend part of the benefits, but it will be dramatic in terms of administrative and financial costs for Countries that slowly responded to this first pandemic, like Italy.

Another criticized issue concerns the economic level of the subsidies granted to self-employed workers. According to ETUC<sup>60</sup>, the replacement income granted in this emergency period was too low to cover living expenses of worker and it was uncanny if compared with the real loss of income due to contract’s cessations. If in this first pandemic period it was comprehensible, due to the lack of resources and to the high number of contemporary claimants, such low level of replacement payments cannot be foregone for a new eventual pandemic. In this unfortunate case, it will bring to several business cessations and it will have an increasing impact on former self-employed claiming for last resort help from governments: a bad scenario that would result in higher unemployment rate and a collapse of independent contractors in the labour market. A solution could be the creation of an *ad-hoc* social security fund, based on voluntarily or compulsory contribution, that could increase the income replacement payment in case of emergency for the insured self-employed workers.

As reported by ETUC, vulnerable self-employed workers - or new ones with less than one year in such working status - suffered a lack of coverage from emergency measures due to highly demanding eligibility criteria. It eroded the positive effect of such measures and left workers with no-safety net, unless their personal resource: a discriminating situation if compared to the support granted to salaried workers and that could not be answered with the historical assumption that self-employed workers will bear the risk of enjoying flexibility and autonomy. This assumption can be normally accepted but it is quite weak in this specific period of time with an exogenous, generalized and unexpected crisis. However, even with relaxed eligibility criteria, some specific “forgotten groups”<sup>61</sup> of independent contractors, like freelancers or gig-workers, had problems in reaching the minimum of paid contribution or not foregone by the scope of application of emergency measures. In order to support uncovered gig-workers and after trade unions’ pressures<sup>62</sup>, some Platforms decided to offer private (and limited) benefits to cope with the pandemic. For example, Hermes, a UK delivery Platform<sup>63</sup>, set aside a support fund worth £1 million (1.13 million Euros) to

<sup>58</sup> <http://constitutionnet.org/news/coronavirus-lockdown-measures-german-constitutional-court>

<sup>59</sup> <https://www.politicalsettlements.org/2020/04/14/covid-19-emergency-legislation-and-sunset-clauses/>

<sup>60</sup> ETUC, *National measures to protect non-standard workers including workers in the platform economy*, in *Covid-19 Watch – ETUC briefing note*, 27 March 2020, 1.

<sup>61</sup> Marchal S., Marx I., *Europe’s social safety nets were not ready for the corona shock*, in *Social Europe*, 21 April 2020: <https://www.socialeurope.eu/europes-social-safety-nets-were-not-ready-for-the-corona-shock>

<sup>62</sup> <https://www.theguardian.com/world/2020/mar/03/coronavirus-uk-unions-warn-over-lack-of-sick-pay-for-gig-economy-workers>

<sup>63</sup> [https://www.eurofound.europa.eu/publications/article/2020/coronavirus-highlights-sick-pay-void-for-platform-workers?fbclid=IwAR0nWxP-2xPNpi4Q\\_hns0YWvV3W7JZKkr3QvWbLujYL\\_yZQPuFcAQS2oEQk](https://www.eurofound.europa.eu/publications/article/2020/coronavirus-highlights-sick-pay-void-for-platform-workers?fbclid=IwAR0nWxP-2xPNpi4Q_hns0YWvV3W7JZKkr3QvWbLujYL_yZQPuFcAQS2oEQk)

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financially help workers who have to self-isolate due to symptoms of the virus and not covered by any other social security benefit. Similarly, Deliveroo (in France) granted an indemnification for Covid-19 diagnosis to gig-workers who have earned 130 Euros per week during the previous four weeks: the daily allowance is fixed at 16.43 Euros and it is granted for “14 days of de-connection”<sup>64</sup>.

Although the Platform involvement could be seen as a generous gesture, the social security problem for these workers is still in place and unsolved, being more and more highlighted by the coronavirus crisis. Governments should be aware that a conspicuous number of workers faced this pandemic with low or almost zero support: a situation that is not acceptable for the sake of the community.

Lastly, the COVID-19 highlighted the need to reevaluate an universalization of social security protections, even if hard to achieve. As seen in Sweden or in Denmark, granting a sick leave to self-employed workers is possible. In the same manner, Ireland and Spain granted unemployment benefit to self-employed workers that suffered a cessation in their economic and professional activities.

All of these measures, in a normal and pre-Covid-19 situation, would be only possible in very generous Countries or in those that cover self-employed workers in the same social security regime belonging to subordinate workers and requesting from them the same economic burden. Having a prior access to health and safety or to unemployment and replacement net would have been very beneficial for self-employed workers who faced the first stage of the pandemic with almost no protections and with the fear of suffering economic and personal deprivation. Thinking about the number of Italian self-employed workers asking for a replacement income payment gives a clear depiction of the need for a structural intervention: more than 4 millions of workers, equal to the 20% of the entire Italian workforce. Such universality of protection, thanks to the experience offered by the prompted responses given to coronavirus pandemic, should be evaluated by European Countries in order to give a real and effective support to self-employment or at least to specific groups belonging to them, like own-account one or professionals.

## 5. Conclusions.

The COVID-19 crisis can be surely defined as a hurricane in our daily lives. Social distancing, borders closures, lockdown measures have affected and will affect our way of living in the future years. In front of this exogenous crisis, the globalized society felt unprotected against the social and economic consequences. Workers have changed their way of work or their place or work, from the firm’s premises to their houses. Governments responded to the crisis with the only possible weapons, namely subsidies granted by public debt, and this will create financial troubles and social policy cuts after the pandemic.

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<sup>64</sup> ETUC, *National measures to protect non-standard workers including workers in the platform economy*, in *Covid-19 Watch – ETUC briefing note*, 27 March 2020, 1.

However, the COVID-19 underlined the fact that “every worker is different against a crisis, but someone is more different than others”.

Subordinate workers received subsidies and economic support in a higher percentage if compared to self-employed workers. Subordinate workers were already covered in case of disease or in case of short-term working schemes. Similarly, they were covered in case of caring children home from school.

On the contrary, self-employed were unprotected against this crisis and only thank to a lame and mixed Governments’ intervention they could reduce the impact of the virus on their daily life and activity. Unfortunately for many of them, this intervention was not enough and raised doubts and concerns about the intrinsic need of reevaluating the scope of application of labour law and social security protections: a well know topic that the COVID-19 brought back in vogue, at least temporarily.

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