



European Employment Observatory

EEO Review: Self-employment, 2010

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1. Introduction

Self-employment and entrepreneurship have been regarded as two fundamental pillars to promote new economic activities in Luxembourg. As recent assessments by social partners in response to the unsuccessful tripartite negotiations - focusing mainly on public finances, competitiveness and employment - have suggested, encouraging measures to boost enterprise creation and innovation are intricately linked to national competitiveness issues in the post-crisis era.

Although self-employment as a more atypical form of employment remains a rather unexplored and multi-faceted field of study, with only a handful of reliable studies available, two observations should be put forward at the outset. On the one hand, since the re-launch of the Lisbon strategy in 2005, further governmental instruments have been put in place as part of a targeted governmental long-term strategy to encourage entrepreneurship and create both new income avenues and continue to increase Luxembourg's employment rate. On the other hand, governmental initiatives, however targeted they may be, have to some extent come up against a low rate of entrepreneurial activity and a high preference for the advantages of employee status (regular, fixed income, stability of employment, etc.), as recent data suggests¹.

Second, self-employment has not been immune to the current economic crisis. As the economic climate degenerated, the unemployment rate steadily rose, there was an increase of short-time working measures, a general slowing down of economic growth and major cases of company or bank restructuring. Out of a total of 6 581 jobseekers, 163 self-employed workers received benefits in May 2010². Out of Luxembourg's overall employment figure of 359 135 workers, 21 729 were self-employed (13 896 men and 7 833 women³). The percentage of self-employed workers increased by 2.9 % between February 2009 and February 2010, which indicates that both the number of self-employed workers increased in tandem with the general salaried workforce and that efforts to promote entrepreneurship, could have impacted positively upon the evolution of self-employment. As regards self-employed intellectual workers (doctors, artists, architects, etc.), the number has also increased from 2651 in 2004 to 3462 in 2008⁴.

Although a large spate of measures and initiatives had already been implemented prior to the crisis at the governmental and sectoral level, the current crisis has led to an increased number of demands for a more competitive economic environment and for an exploration of new income avenues. Both the current crisis and the need to create new innovative jobs in an increasingly competitive environment seem to have led to the awareness that an increase in self-employment requires a legal, though flexible, framework (e.g. the creation of a law regulating freelance professional artists⁵).

¹European Entrepreneurship Survey Scoreboard of the EU25, Flash EB Series 192, www.ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/eurobar, www.adem.luometer/index_en.htm

²National Employment Agency ADEM, Employment Report April 2010.

³Data collected from the National Employment Agency ADEM and the General Inspectorate of Social Security IGSS and the National Statistical Institute of Luxembourg STATEC.

⁴Idem.

⁵Law of May 26, 2004 modifying the law of July 30, 1999 on the independent professional artist and the promotion of artistic creation, Mémorial A, Number 90, June 17, 2004.

2. Assessment of national Labour Market policies and recovery measures

2.1 Defining and categorising self-employment as atypical work

The applicable definition of self-employment is based on the Social Insurance Code, which was revised in 2005. The law⁶ applies to those workers ‘performing in the Grand-Duchy for their own account an occupation within the context of the Chamber of Craft Workers, Chamber of Trade or Chamber of Agriculture or a professional activity with a predominantly intellectual and non-commercial character’. Self-employed workers have therefore to be registered members of one of the existing professional associations. Although designed as a flexible form of employment with a large degree of independence, self-employment has also benefitted from a legal framework that confers similar rights as those given to salaried employees, although major differences still exist. Whilst self-employed workers need to pay their own social security contributions (paid by the employer for wage workers), both self-employed and wage workers are affiliated to the Joint Centre of Social Security⁷.

Moreover, the legal framework is reinforced by a well-structured network of sector-specific associations for self-employed intellectual workers, grouped together under a national umbrella organisation, the Fédération Luxembourgeoise des Travailleurs Intellectuels Indépendants (Luxembourg Federation of Independent Intellectual Workers)⁸ (FTI), created in 1961, to defend the interests of the liberal professions⁹. At the legal level, the government has designed three different categories of self-employed workers¹⁰: liberal professions (engineers, architects, etc.) with a trade license (*autorisation d'établissement*) to be obtained from the Ministry of Medium-sized Businesses¹¹, liberal professions based on other laws (doctors, dentists, etc.) or other professions that are not based on trade licenses. Although specific qualifications and competences are usually required for the various professions, no legal entity (i.e. company) is created. It is only an individual person who is therefore responsible for all debts. In an effort to analyse more closely the socio-economic phenomenon of self-employment, a study carried out by Gilbert McNeill in 2007 concluded that an independent worker ‘exercises an economic activity as a non-employee (...) the independent worker can be an independent-entrepreneur or an assistant (*aidant*)’¹². Not only does this definition reflect the close link between self-employment and

⁶ Law of July 25 2005 modifiant: 1. The Code of social insurance ;2. The Law of August 3, 1998 creating pension regimes for state and municipal agents; the modified law of July 28 2000 with the objective to coordination legal pension regimes, Mémorial A, Number 120, August 4, 2005.

⁷ www.ccss.lu

⁸ www.fti.lu/index.php?option=com_content&view=category&layout=blog&id=2&Itemid=2

⁹ In a statement to the Christian Socialist party prior to the formation of a new government in 2009, the FTI emphasised the context in which self-employment should ideally be developed. According to the FTI, ‘self-employment can only be guaranteed in a context of training, compensation and practice of the liberal profession’, www.fti.lu.

¹⁰ www.guichet.public.lu

¹¹ Law of December 28, 1988 1. Regulating the access to the professions of craftsman, tradesman, industrialist and certain liberal professions; 2. Amending Article 4 of the Law of July 2, 1935 regulating the conditions for obtaining the title and certification in the exercise of trades, Mémorial A, Number 72, December 28, 1998.

¹² Gilbert McNeill, La définition-cadre de l'Indépendant et de l'Entrepreneur et la mesure de l'entrepreneur et de l'activité entrepreneuriale dans le contexte luxembourgeois, Rapport de la Phase II du projet de recherche sur le statut d'indépendant au Luxembourg, p.16, www.tudor.lu.

entrepreneurship, but it also points towards the generally accepted coexistence of self-employment as a second employment form next to the standardised and more popular salaried employment form defined as a 'socially secure, full-time job of unlimited duration, with standard working hours guaranteeing a regular income'¹³.

Based on French data, a recent CEPS/INSTEAD study¹⁴ designed a more sector-specific categorisation of self-employment in Luxembourg: data underlined that 26 % of self-employed workers work in the agricultural sector, 10 % in industry, construction or wholesale business, and 19 % in commercial activities, whereas the majority (45 %) of Luxembourg's self-employed workers carry out liberal professions. The study has also highlighted that self-employed workers, who usually hold higher education diplomas, often work more than 50 hours per week and have a good income. Although affected by unemployment, the level of poverty among self-employed workers is generally low with 2007 data revealing a poverty rate of 12 %¹⁵.

2.2 Government policy and incentives to promote entrepreneurship

Both entrepreneurship and self-employment more generally face a significant challenge in the sense that a large part of the working population still prefer to have employee/salaried status¹⁶. The aforementioned McNeill study on Luxembourg rightly underlines that six elements are shaping the entrepreneurial environment: the legislative and regulatory context, R&D and technologies, access to finance, the economic context, as well as the entrepreneurial culture¹⁷. In the context of the re-launch of the Lisbon strategy, the government's strategy to boost job creation and implement a favorable environment for innovation and entrepreneurship has been embedded in the integrated guidelines (LDI) 14 and 15¹⁸ of the first National Reform Programme (NRP) 2005-2008. The National Committee for the Promotion of Enterprises (CNPEE), created in 2004 and regrouping governmental agencies, professional chambers and the National Society of Credit and Investment (SNCI), contributed to an assessment of already existing indicators of entrepreneurship in Luxembourg¹⁹. In addition to a general policy objective of the promotion of entrepreneurship, developed in the subsequent implementation reports (2006 and 2007), the foundations were laid to address young people and reinforce the link between companies and schools²⁰. The willingness to promote entrepreneurship has also been reflected by the conclusions

¹³ www.eurofound.europa.eu/areas/industrialrelations/dictionary/definitions/atypicalwork.htm

¹⁴ Audrey Bousset, Socio-demographic portrait of independent workers, CEPS/INSTEAD, *Chroniques de l'enquête PSELL-3/2007*, Number 64, November 2009, www.ceps.lu.

¹⁵ Frédéric Berger, Work does not always suffice to prevent poverty, CEPS/INSTEAD, *Chroniques de l'enquête PSELL-3/2007*, Number 33, April 2007, www.ceps.lu.

¹⁶ See European Entrepreneurship Survey Scoreboard of the EU25, Flash EB Series 192, www.ec.europa.eu/enterprise/policies/sme/facts-figures-analysis/eurobarometer/index_en.htm

¹⁷ McNeill 2007, pp. 10-11.

¹⁸ LDI 14: to create a more competitive business environment and encourage private initiative through better regulation; LDI 15: to promote a more entrepreneurial culture and create a supportive environment for SMEs.

¹⁹ www.gouvernement.lu/salle_presse/actualite/2005/06/08krecke_cnpee/index.html

²⁰ National Plan for Innovation and Full Employment 2005 (pp. 22-23), Competitiveness Observatory, Ministry of the Economy and Foreign Trade, www.odc.lu

put forward at the end of the 2006 tripartite negotiations²¹. Financial support for SMEs has been provided by the implementation of a legal framework in 2004 and adapted in 2009²².

In addition to the creation of the CNPEE, the *Trau dech – maach dech selbstänneg* (Have the heart to take part – become self-employed) campaign in 2004 by the Ministry of the Economy and Foreign Trade and the Ministry of Medium-sized companies is relevant as it sought to encourage the population to become self-employed and create new companies.

The 2009 National Reform Programme (NRP) provides a good overview of the various initiatives in the context of the implementation of the Small Business Act through its six priorities and a series of initiatives (e.g. implementation of a unique office for company-related issues, B2G – Business to Government networks, Young Entrepreneur Luxembourg Prize, Business Plan Toolbox, etc.)²³. The Erasmus for Young Entrepreneurs pilot project, launched in 2009, underlines well how several governmental agencies cooperate in this area (e.g. Luxinnovation, National Agency for the Promotion of Innovation and Research).

In addition to the 2009 NRP, the 2009-2013 government programme²⁴ also emphasises a series of long-term objectives to foster entrepreneurship and to provide a legal framework for the self-employed. Governmental aid schemes are to be further developed with a particular focus on alternative aid schemes such as company start-up loans. As regards self-employment, the government, through the Ministry of Medium-sized Businesses, will analyse the situation of self-employed workers and create a new legal status for self-employed workers setting up a company. In this context, self-employed workers should be offered the same social rights as those already enjoyed by salaried workers, making self-employment less vulnerable and exposed to the evolution of the market. In the context of the 2010 tripartite negotiations, a list of priorities has again been highlighted by the Minister of the Economy and Foreign Trade²⁵. As the crisis led to an increase in unemployment and to a strong debate by the social partners about Luxembourg's competitiveness, these measures in combination with strong investments in R&D are welcomed as they will lead to additional income avenues, economic diversification and the emergence of new economic sectors.

2.3 The impact of professional chambers and social partners

As self-employed workers need to be registered members of one of the sector-specific professional organisations, they obtain in return support such as guidance and tailor-made expertise. Through their well-established position within Luxembourg's social dialogue instruments, professional organisations (e.g. the Chamber of Trade, the Chamber of Agriculture, etc.) can indirectly participate in the decision-making process. Representatives of the various

²¹ www.gouvernement.lu/salle_presse/communiqués/2006/04/28tripartite/tripartiteconclusions2006.pdf

²² Law of May 28, 2009 modifying the Law of June 30, 2004 on the creation of the general framework of SME financial aids, Mémorial A, Number 134, June 15, 2009. Another long-term financial incentive to encourage the creation of companies has been a tailor-made starting loan (prêt de démarrage) offered by the National Society of Credit and Investment (SNCI).

²³ www.odc.public.lu/publications/pnr/Rapport_Plan_national_2009.pdf (pp. 39-43).

²⁴ www.gouvernement.lu/gouvernement/programme-2009/programme-2009/04-cm-tourisme/index.html

²⁵ 'Propositions d'ordre général du Ministre de l'Économie et du Commerce extérieur pour l'amélioration de la compétitivité nationale en vue du Comité de coordination tripartite' (April 2010), www.eco.public.lu.

organisations take part in both the tripartite negotiations and the Economic and Social Committee (CES)²⁶. Moreover, professional organisations offer guidance throughout the design and implementation process of projects and create administrative instruments (e.g. the *Création d'entreprise* department of the Chamber of Craft workers²⁷) or cooperate within already existing instruments.

In spite of the fact that no evaluation of the impact of professional associations is yet available, the success of an initiative is often bound to be measured by the number of businesses it helped to set-up. In this respect, the expert network *1,2,3 GO*²⁸, launched in 2000 by the Chamber of Trade, the Luxembourg Business Federation (FEDIL) and the government agency Luxinnovation, to stimulate entrepreneurship in the Greater Region through expert guidance, has facilitated 230 business start-ups (creating 1000 jobs) in the medicine and communication sectors²⁹. Social partners have also put forward their positions for the 2010 tripartite negotiations on how to counter the crisis in the sense that the post-crisis economic recovery is strongly interconnected with the competitiveness of companies. Luxembourg's Business Federation (FEDIL) repeatedly stressed the importance of a revision of the legal status of self-employed workers³⁰.

2.4 Policies and initiatives targeting specific groups (women, young, unemployed, etc.)

The government, often with the help of partners from the public or private sectors, has implemented a series of measures to promote self-employment and entrepreneurship. Part of the government's strategy to boost company creation has been the promotion of female and young entrepreneurs. The government programme 2009-2013 underlines that the government promotes female entrepreneurship³¹ in combination with positive actions launched in the context of the Lisbon strategy and detailed in the two NRPs³². As regards self-employment and entrepreneurship, two global long-term indicators on levels of female self-employment are part of the recent Gender Equality Action Plan 2009-2014 in the context of the new EU2020 strategy³³. In addition to government initiatives, public-private partnerships launched the Woman Business Manager of the Year Award³⁴ and informal female networks (e.g. Femmes Leaders du Luxembourg³⁵) have contributed to the promotion of female entrepreneurship.

Moreover, with regard to young entrepreneurs, the promotion of innovative companies, the setting-up of financial aid schemes, as well as a general proactive company policy, have been at

²⁶ www.ces.public.lu/fr/index.html

²⁷ www.cdm.lu/pls/CDM/GetRub?lng=FR&rub=11&p=11

²⁸ www.123go-networking.org/Home/tabid/36/language/fr-FR/Default.aspx

²⁹ *Le Quotidien*, Une belle success story, June 21, 2010.

³⁰ See publication '100 measures to recover competitiveness and boost economic activity', Luxembourg Business Federation, 5 of February 2009, www.fedil.lu.

³¹ www.gouvernement.lu/gouvernement/programme-2009/programme-2009/programme-gouvernemental-2009.pdf (p.81)

³² A list of positive actions can be found on www.mega.public.lu

³³ The two global indicators aim to measure a) independent women and men as a percentage of the workforce in total employment and b) the number of company creations by women and men, www.mega.public.lu/publications/1_brochures/2010/pan_egalite_2009-2014/Pan_Egalit_.pdf, p.21.

³⁴ www.dexia-bil.lu/webquotes/index1.asp?h=1&lang=fr&menu=mncon&href=htm/mnc_wom_busi.asp?lang=fr

³⁵ See Clara Moraru *female Leadership in the Grand-Duchy of Luxembourg* (Luxembourg: Editions Dialogue, 2009).

the heart of both the Ministry of the Economy and Foreign Trade and the Ministry of Medium-sized Businesses'³⁶ priorities. Other initiatives, promoted within a collaboration process with partners from the private sector are the following: the *Jonk Entrepreneuren Luxembourg: la promotion de l'esprit dans l'éducation programme*³⁷ (Luxembourg's young entrepreneurs: the promotion of entrepreneurship at educational level) with the objective to familiarise young people with entrepreneurship through project work and reinforce the links between school and companies; the *Concours du Jeune entrepreneur le plus créatif du Luxembourg*³⁸ (CYEL) sponsored by both professional associations (e.g. the Chamber of Trade), government agencies (Luxinnovation) and a panoply of private companies (e.g. KPMG, SARL, etc.); the GENIAL children competition organised by Luxinnovation and the Ministry of Education and Vocational Training³⁹; as well as more private initiatives such as FUSE Price⁴⁰, launched by the Foundation of Economic Science Students to promote essays on entrepreneurship.

In addition, jobseekers are given the opportunity to set up (or take over) a company in Luxembourg if they design a serious and realistic company business plan⁴¹. The self-employment aid schemes are open to jobseekers who already receive unemployment benefits for more than six months (more than three months if they are over 40) or if they are registered for a minimum of eight months with the National Employment Agency ADEM and have already built a professional career in Luxembourg for a minimum of 6 years. These measures are highly efficient incentives to reintegrate jobseekers back into the employment market and to reduce the unemployment rate.

3. Quality of self-employment jobs

3.1 Between protection, flexibility and lifelong learning strategies

Even if no data on quality at work for self-employed workers is currently available (apart from the aforementioned CEPS/INSTEAD study providing data on working hours, educational levels, incomes, etc.), the economic crisis has shown that every form of employment is vulnerable and exposed to a decrease in demand. Although key sectors with self-employed workers (e.g. agriculture) have to a large extent been adaptive, the deteriorating economic climate can be identified as a reason why self-employment will not only be subjected to a general assessment, as announced by the government, but why some activities within the framework of self-employment have already been embedded in a legal framework that increases the attractiveness of working independently by offering mechanisms of protection and building a bridge to the coveted employee status.

An example can be drawn from the artistic sector in Luxembourg. The government has already created a legal status for the professional self-employed artist through a modification of the initial

³⁶ See government programme 2009-2014: pp. 26, 58.

³⁷ www.jonk-entrepreneuren.lu

³⁸ www.cyel.lu

³⁹ www.luxinnovation.lu/site/content/FR/400/463/1309/C6230/

⁴⁰ www.fuse.lu

⁴¹ www.guichet.public.lu/fr/citoyens/travail-emploi/statut-independant/creation-entreprise/aide-creation-entreprise-chomeur/index.html

1999 law⁴². Similar to the definitions developed by, for example, McNeill or the European Commission, the law recognises the existence of the artist as a self-employed professional by defining in Art. 2 that a self-employed professional artist is a person 'outside any relationship of subordination, [the artist] determines the conditions under which [the artist] conducts its performances, bears the economic risk and social'. A paradox, particularly emphasised in times of crisis when financial resources are relocated to other priorities, becomes apparent: similar to other sectors relying mostly on the self-employed, artistic creativity and liberty are associated with economic vulnerability, risk-taking and subordination. However, in addition to a panoply of measures to stimulate artistic creation and jobs (e.g. grants, fiscal incentives, etc.), the law is also flexible in the sense that it takes risk-taking to some extent into account and under Art. 5 puts in place a Social Cultural Fund for artists. Future legal frameworks that define the status of other categories within self-employment should aim towards a similar objective: to take risk-taking into account and put in place flexible long-term mechanisms.

As already pointed out, self-employment is as much exposed to the vagaries of the economic environment as wage employment. Lifelong learning strategies and underlying investments are therefore of vital importance and serve a double-fold objective: first, they increase more generally the employability of workers within the various categories of the self-employed, including the unemployed; second, training schemes have been set up to fulfil the requirements and foster the skills needed by various sectors relying on self-employed workers, increasing the quality and service of the work they provide. Multi-faceted lifelong learning strategies and training schemes⁴³ for both employees and self-employed workers have been reinforced in the context of the Lisbon agenda and recent figures from the National Institute for the Development of Continuous Vocational Training (INFPC)⁴⁴ and related agencies (e.g. Higher School of Work) have shown that their relevance is steadily on the increase as the number of training schemes has increased over the last years⁴⁵.

In the same context, two other tailor-made instruments for the self-employed and liberal professions are the linguistic leave, which is on offer since February 2009⁴⁶, and individual training leave⁴⁷. Similar to the rights of employees, the new law stipulates that self-employed workers, exercising an independent profession for a minimum of six months in Luxembourg, can apply for linguistic leave to participate in Luxembourgish language courses (or prepare for language exams) for a total of up to 200 hours. As for the training leave, it can be divided into two parts (each with a minimum of 80 hours) in order to participate in training courses, prepare

⁴² The initial law was modified by the law of May 26, 2004, modifying 1. The law of July 30, 1999 on a) the statute of the professional independent artist and the show business intermittent workers b) the promotion of artistic creation, Mémorial A, number 90, June 17, 2004.

⁴³ www.lifelong-learning.lu/pdf/repertoireof.htm

⁴⁴ www.infpc.lu

⁴⁵ L'essentiel, La très forte progression de la formation continue, July 8, 2010.

⁴⁶ Law of February 17, 2009 1. Introducing a linguistic leave 2. Modification of the Code of Work and 3. Modification of the Law of August 19, 2008 as regards training-research aid schemes, Mémorial A, number 33, February 26, 2009.

⁴⁷ Law of October 24, 2007 on the creation of an individual training leave, Mémorial A, Number 242, December 28, 2007.

for exams, or any other training-related work. Self-employed workers receive compensation from the government for the training days. They can apply for an individual training leave if they are affiliated for a minimum of two years with the social security in Luxembourg. Although the impact and use of these initiatives can still not be fully measured, they constitute symbolic incentives to bridge the gap between employees/wage workers and self-employed workers. Both employment forms have witnessed a continuous and necessary adaptation of skills and competences to an employment market in constant evolution.

4. Conclusions

This report has shown, in brief, how self-employment has been defined and how the government has implemented tailor-made and long-term strategies to boost entrepreneurship at the various levels. The promotion of entrepreneurship and revision of the self-employment status have been identified as continuous and transversal governmental objectives involving a panoply of ministerial departments and government agencies. A dynamic partnership between the government, professional chambers and private actors has come to complement the existing offer of guidance and expertise in the field of entrepreneurship. The partnership will be of utmost importance in the future as the private sector can not only identify if there is a lack of skills in a particular sector, but it can also go on offering tailor-made and experience-based training schemes. Not only have financial aid schemes been detected as vital incentives to promote entrepreneurship and innovation, but the early link between entrepreneurs and schools, providing opportunities for socially vulnerable groups and increasing lifelong learning strategies, have been established as further elements which determine the success of entrepreneurship and the attractiveness of self-employment as a promising alternative to traditional employment forms. One of the fundamental challenges for the future will be to further close the gap between the two employment forms by embedding self-employment into a legal framework that confers more rights, but which still enables a large degree of flexibility. Although aspects of competitiveness have more recently been at the centre of debates in the tripartite context, the social dimension has gradually become more relevant through the fact that self-employed activities have become regarded as vital economic sectors.

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