



# **Mutual Learning Workshop on Access to Social Protection 'Effective coverage – Income and time thresholds'**

## **Outcome Report**

Written by ICF  
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E-mail: [EMPL-C2-UNIT@ec.europa.eu](mailto:EMPL-C2-UNIT@ec.europa.eu)

Web site: <http://ec.europa.eu/social/mlp>

European Commission

B-1049 Brussels

**Mutual Learning Workshop on  
Access to Social Protection  
'Effective coverage – Income  
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Brussels, 14 - 15 January 2020

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Income and time thresholds' – Outcome Report

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## **1 Introduction**

The purpose of this second of a series of four mutual learning events was to discuss effective social protection coverage of self-employed and non-standard workers. Article 9 of the Council Recommendation on access to social protection for workers and self-employed<sup>1</sup> (hereafter the Recommendation) calls for effective coverage of all workers, regardless of the type of employment relationship or labour status. Rules determining contributions (e.g. qualifying periods, minimum working periods) and entitlements (e.g. waiting periods, calculation rules and duration of benefits) should not prevent individuals from accruing or accessing benefits because of their type of employment relationship or labour market status. If different rules apply to non-standard work or self-employment, these should be proportionate, justified, and provide comparable protection (of equal value).

Even if non-standard workers and the self-employed have formal coverage<sup>2</sup>, specific eligibility criteria often stop them to accrue and take up adequate entitlements<sup>3</sup>. This can have two different reasons: either the same rules exist for self-employed, non-standard workers and standard workers, but self-employed and non-standard workers cannot or can only partly meet the respective criteria, or there are different rules and the rules applying to non-standard workers and self-employed hinder them to accrue or access benefits.

Against this background, Day One of this workshop reviewed eligibility criteria and their impact on effective coverage of self-employed and non-standard workers. Day Two then reviewed the social risks for self-employed and standard workers and ways to ensure effective coverage in different social protection branches. Participants from France and Poland as well as the stakeholders UNIZO (Belgian Organisation for the Self-Employed and SMEs) and ACV-CSC (Belgian member of the European Trade Union Confederation, ETUC) presented approaches and positions towards effective coverage.

This was the second of a series of workshops to inform Member States' plans and contribute to the implementation of the principles set out in the Council Recommendation<sup>4</sup> on access to social protection for workers and self-employed and those of the European Pillar of Social Rights (EPSR).

## **2 Adapting to changing labour markets and societies**

Social protection supports people against certain social- and labour-related risks, such as income loss due to a work accident, unemployment, an illness or early retirement. National social protection systems and their criteria to access and accrue benefits have evolved over years. Today, social protection systems need to adapt to economic and societal developments such as new forms of work and changing family structures.

According to Paul Schoukens, Professor of social security law at KU Leuven, 'the Recommendation is an invitation to reconsider entitlement conditions such as qualifying records or waiting periods: are they still relevant, effective, proportionate and coherent? Their objective should be neutral in relation to the nature of work or labour status (Article 9, paragraph 1) and the Recommendation calls for double attention (Article 9, paragraph 2). If there are differences between rules for standard worker, non-standard workers and self-employed, these should be justified,

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<sup>1</sup> European Union (2019), Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed. Accessed at: [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019H1115\(01\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019H1115(01)&from=EN) (30.01.2020)

<sup>2</sup> This was the topic of the first Mutual Learning Workshop, see here: <https://ec.europa.eu/social/main.jsp?catId=88&eventsId=1536&furtherEvents=yes&langId=en>

<sup>3</sup> European Commission (2018), Commission Staff Working Document, Impact Assessment Accompanying the document Proposal for Council recommendation on access to social protection for workers and the self-employed.

<sup>4</sup> This was adopted by the Council on 8<sup>th</sup> November 2019.

proportional and provide comparable protection (protection of equal value). If the same rules apply, Member States should check upon undesired effects for non-standard work and self-employment.'

#### *Eligibility conditions*

Eligibility conditions, based on time and income thresholds, regulate access and benefits to a certain scheme. They were often developed to ensure fiscal sustainability, prevent abuse and protect the interests and loyalty of the members of the scheme. Eligibility conditions can impact on access to, duration and level of social protection benefits.

The following affect the *access* of social protection benefits:

- Time thresholds, such as *qualifying periods* which refer to a prior period of insurance, payment of contributions or residence to become entitled and *minimum work records* proving to have worked for a certain amount of days. *Waiting periods* apply after the insured person is already entitled. In case the risk occurs, the person still has to wait for a period of time before a benefit can be paid.
- *Income thresholds*, thus a minimum amount of contributions that have to be paid/or income that has to be earned before the risk occurs in order to become entitled.

The following affect the *duration* and *level* of the benefit:

- The length of the qualifying period, the work record or the contributions paid determine the entitlement, therefore the level and/or the duration of the benefit.

#### *Eligibility conditions and challenges for self-employed and non-standard workers*

Eligibility conditions to access social protection can be problematic for self-employed or non-standard workers:

- In case the same rules, originally tailored to standard work, apply for all working persons, self-employed or non-standard workers may not be able to access or accrue entitlements. For instance, they have not been able to meet conditional working records because they have had short and/or interrupted working periods.
- If there are different rules for self-employed and non-standard workers, rules may often not take into account their specific situation or the differences in treatment are not justified. For example, stricter conditions for part-time workers in the Spanish pension and unemployment schemes were ruled against by the European Court of Justice<sup>5</sup>. This ruling was primarily brought up because of discrimination of (part-time working) women in context of the Council Directive 79/7/EEC 19 December 1978 on equal treatment for men and women in matters of social security<sup>6</sup>, however, it is also relevant for the treatment of non-standard workers.

The analysis of Dr. Sonja Avlijaš, Institute of Economic Sciences, commissioned by the European Commission and presented during the workshop provide further insight into the current state of play across the EU. European data from the Mutual Information System on Social Protection (MISSOC) was analysed in terms of eligibility criteria,

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<sup>5</sup> See Thematic paper. Mutual Learning on Access to social protection for workers and the self-employed 2nd Workshop: Effective coverage

<sup>6</sup> COUNCIL DIRECTIVE of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security. Accessible at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31979L0007> (06.02.2019)

duration and amount of benefits (earnings replacement rate) in the branches of healthcare, sickness and maternity / paternity<sup>7</sup>.

Conditions to access health care exist rarely for employees across Member States (only four Member States have qualifying periods) and there are no limitations in terms of the duration of in-kind benefits. In two countries, Austria and Greece, self-employed contribute to health care costs.

In order to receive sickness benefits, there are sometimes qualifying periods for self-employed (such as in the Czech Republic or in the Netherlands) or the qualifying period is significantly longer for self-employed than standard workers (such as in Denmark, France or Portugal). Self-employed are not covered in Ireland, Italy and Greece. The duration of sickness cash benefits does not differ in most countries between self-employed and employees.

In terms of maternity/paternity, the duration of leave is the same for self-employed and employees, with minimum qualifying periods for cash benefits for self-employed in some countries (e. g. Austria, the Netherlands).

Looking at the 2020 Joint Employment Report, there are qualifying periods for unemployment benefits in most countries, whilst the duration of the benefit varies. In addition, only 1 in 3 short term unemployed are covered by unemployment benefits. In most countries, people with permanent contracts are more likely to receive unemployment benefits. Moreover, in all countries, non-standard workers and the self-employed are at a higher risk of poverty than workers with a permanent contract (after social transfers).

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<sup>7</sup> Presentation by Dr. Sonja Avlijaš, Institute of Economic Sciences. An analysis in the branches of accidents at work and occupational diseases, invalidity and pensions is planned.



### *Difficulties to assess working time and income*

The challenges of non-standard workers and self-employed to access and accrue social protection benefits is connected to difficulties to assess working time and income of non-standard workers and self-employed.

Self-employed might have fluctuating working periods leading to varying income. This is determined by the activity they perform, e.g. if they are dependent on one contractor, if they are a freelancer or run a business. There are also differences between Member States if co-working spouses or children are considered as employees or self-employed. In cases of sickness or unemployment, self-employed might still receive income from previous business activities. Here, Member States have different approaches, for example, some combine the receipt of benefits with a declaration of the termination of business activity, while others tolerate additional income. A way to cover self-employed against the risk of income loss is targeted help, for example, income support in case of economic downturn. Moreover, non-monetary support should be considered for some risks, such as household vouchers (see below).

Non-standard workers are often covered in a similar way to standard workers. However, some of them may nevertheless fail to meet the time and income thresholds which are designed for standard workers: they often find it more challenging to reach the time and income criteria defined on the basis of full-time equivalents, leaving them without coverage in some branches. If they meet access criteria, their lower contribution in terms of time and income can lead to inadequate benefits. In addition, eligibility criteria need to be closely reviewed regarding possible 'double discrimination'; for example, in the above mentioned Spanish case, part-time workers were disadvantaged by a lower income basis (due to the part-time occupation) *and* a reduction factor which was applied as a consequence of smaller contributions paid into the system. In contrast to self-employed, the employer plays a role in the design of social protection for non-standard workers. Therefore, the employer could compensate partly for gaps in contribution periods in some cases, especially for low-income part-time jobs.

Even if income or time thresholds are met to access the benefit, a shorter period of contributions or lower contributions might lead to insufficient benefit levels. This is especially the case for low-income earners or when time and income come from different jobs, often in different employment status, which are not considered jointly.

For both, self-employed and non-standard workers, income from different jobs should be considered. For example, the average income across the year as the basis for calculation. In addition, time thresholds could be defined on more flexible units, for instance days worked per year.

### *Changing family structures*

Next to increasing self-employment and non-standard work, changing family structures also require a review of existing rules in social protection systems, which are still often based on 'standard' employment and family structures.

Especially women face disadvantages to have effective and adequate social protection, because of career breaks or a higher share of part-time work. In current social protection schemes, a separation of a partner or loss of a partner might often mean no or no effective access to social protection. As a result, leave and part-time work to care for children or dependent relatives should therefore be acknowledged, for example by considering maternity or paternity leave allowances in work records.

In addition, income thresholds to access social protection and to determine entitlements pose the question if household or individual income should be assessed. This is often a political choice. For example, schemes are more individualised in the Nordic countries, relating to everyone's entitlement to social rights in this welfare model.

Family structures should also be considered when looking at data. For example, EU SILC provides data on household level, but considering also individual income would provide more insight.

*Considering the heterogeneity of self-employment and non-standard work for effective coverage*

As mentioned during the first Mutual Learning Workshop, there are different forms of self-employment and various forms of non-standard work throughout Europe<sup>8</sup>.

This can impact on the extension of formal coverage of social protection, but also determine effective coverage for those groups. Hence, every country also needs to review the social protection schemes' rules in light of the heterogeneity of self-employed and non-standard workers, and if they provide flexibility to adapt to changes on the labour market, for example by covering emerging new forms of work.

**Example: self-employed and non-standard workers in Poland**

According to Polish law, everyone performing work on the basis of an employment contract is a worker with no consideration of working hours or the duration of employment. Regarding self-employment, the regulation on the social security system mentions people running or acting as associates in (non-agricultural) business activities, contractors and artist as people who can be treated as self-employed, but no official definition exists. Regarding non-standard work, the regulation on the social security system mentions workers who can be treated as non-standard; outworkers (home-based workers), civil law contractors who perform work on a basis of various types of civil law agreements (agency workers, students, etc), members of agricultural production cooperatives and temporarily detained people and prisoners engaged in paid work. There are around 2.6 million non-standard workers and self-employed in Poland, which is about 16% of the total workforce. Eligibility criteria do not differ for non-standard workers and the self-employed regarding pensions, disability and healthcare. There are different eligibility criteria for sickness and maternity in terms of longer waiting periods and there are income thresholds for invalidity and pensions in case of early retirement, as well as qualifying periods for unemployment benefits. The rationale for them is to guarantee fiscal sustainability.

*Reviewing and designing eligibility conditions*

Time thresholds and income thresholds require a careful review of what type of differences are justified. They have developed over time to provide insurance loyalty, to guarantee financial sustainability and to prevent fraud. However, as above mentioned, they can create gaps for self-employed and non-standard workers. The necessary adjustment of these eligibility rules should therefore contribute to better meet specific needs and work situations of self-employed and non-standard workers.

To adapt to new realities, the time periods through which qualifying periods or waiting periods are defined (traditionally full-time per day or week) could be reformulated in smaller time units, for example hours. This is already done in Belgium and the Netherlands, where the minimum qualifying records are increasingly stated in hours of work to be eligible for sickness-related benefits. The required time volume as such remains the same, however the accumulation method better matches the reality of non-standard workers and self-employed, and thus increases the likelihood of effective coverage. Another possibility is to move to an income-based system, where income is used as the computing element instead of time (see Danish example in box below).

In any case, the systems should avoid over penalising (for instance, by applying both time and income thresholds, or by applying both a flat-rate and a waiting period).

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<sup>8</sup> See also here Mutual Learning Workshop, see here: <https://ec.europa.eu/social/main.jsp?catId=88&eventsId=1536&furtherEvents=yes&langId=en>

In light of irregular work periods of self-employed and non-standard workers, an option could be to provide a flat-rate benefit until the contributions record is long enough (e.g. 12 months); subsequently, benefits would be earnings related. It should also be carefully considered whether the amount of benefits should be made dependent on the type of illness, assuming that this will impact the degree of work incapacity.

Next to the problems for self-employed and non-standard workers to meet them, conditions and different schemes may be complex. This can create more administrative burden for authorities, but also hinder access by a lack of knowledge of social protection by self-employed or non-standard workers. For example, in a survey done by UNIZO, the Belgian employers and self-employed organisation, 41.6% of self-employed did not know they are entitled to income replacement when they were sick. Furthermore, 85% of self-employed continue working when they are sick, an aspect that reveals the difficulty of self-employed to stop their economic activities, even if they are ill.

In addition, eligibility conditions also need to be considered within a wider political or economic agenda to boost certain sectors, for example the knowledge-based economy which might typically rely on more non-standard jobs. If complex and different rules exist in various schemes, the workforce needed in these sectors might be disincentivised to work in that sector.

As a result, access and conditions to social protection schemes taking the specific situation of self-employed and non-standard workers into account, need to be transparent and clearly communicated. For example, a single access point to schemes covering different branches or a joint access point for all types of workers may decrease complexity, such as described in the French example below.

#### **Example: the reform of the French social security system**

Self-employed moved into the general scheme of the French social security system in 2018. This reform also aimed to reduce administrative burden by merging four social security schemes into three. This did not modify the specific features of social protection of the self-employed, but it was an opportunity to redefine and align certain benefits - such as maternity leave - closer with the system for employees. Self-employed enjoy the same rights in the pension, health care and family-benefit branch. The sickness benefits differ significantly; self-employed have a longer waiting period, benefits are lower, and they are to pay an extra contribution. Invalidity is covered by a supplementary scheme; work accidents and occupational health and unemployment are covered by voluntary insurance. For those social protection branches, self-employed - often with fluctuating income - enjoy tax incentives to enhance voluntary coverage.

### **3 Design options for effective coverage**

The various social protection branches vary in terms of the risks they address and the existing gaps in formal coverage. As a consequence, different options to design entitlement conditions could be relevant depending on the branch, taking into account the specific work situation of the non-standard workers and the self-employed.

#### **3.1 Unemployment benefits**

Unemployment benefits cover the risk of a loss of income by a person who is willing and able to work. Two types of unemployment schemes are in place in Member States: first, one of a more general nature often organised as a minimum income benefit scheme with a perspective on future work opportunities and the willingness of the unemployed person to find work. Activation measures play an important role here. Second, an insurance scheme organised around the traditional wage earner and providing an income-related benefit based on the previously earned wage. The former

absorbs self-employed and non-standard workers more easily than the latter, especially in the case of self-employed, as the risks to be addressed may be different from unemployment *stricto sensu*. Some countries, such as the Netherlands, consider that the self-employed cannot be covered for the risk of unemployment, as they take this kind of risk on themselves.

For the self-employed, the difficulty of defining the loss of income often hinders effective coverage, while non-standard workers, in particular, face the challenge of reaching the eligibility conditions due to insufficient income or interrupted work relations, as these conditions are usually based on the traditional employer-employee relationship. More effective coverage for non-standard workers could thus be reached by introducing different reference periods and/or by requiring higher contributions from employers who hire non-standard workers. The sustainability can be ensured by providing incentives to employers to regularise the employment relationship with them. For the self-employed, a clear definition of the loss of income could ensure that unemployment benefits can indeed be taken up when needed.

**Example: Danish policy of integrating non-standard workers and self-employed into unemployment schemes**

With a view to effectively and efficiently integrate non-standard workers and the self-employed into the unemployment scheme, benefits in Denmark are now assessed based on income rather than on hours of work, as previously the case. All work-related income earned within the past three years is taken into account, regardless of whether this income was generated through standard work, self-employment or non-standard work. Furthermore, it is possible that the aggregated income from various kinds of work and self-employment, performed simultaneously, is used as a basis for the benefit calculation.

### **3.2 Accidents at work and occupational diseases**

Benefits related to accidents at work and occupational diseases cover the risk of a loss of income, health care needed as a result of hazardous work environments, as well as survivorship. Workers face similar dangers when performing professional activities regardless of the type of employment relations or contract. However, there is no employer at all in the case of self-employed which can be held liable for failing to guarantee a safe and healthy work environment. As a consequence, some Member States are reluctant to organise social protection for risks related to work accidents and occupational disease. An additional factor that hinders effective coverage, particularly of the self-employed, is their volatile work environment and the consequent difficulty of proving that an accident was the result of a work-related activity and/or occurred during working hours. Qualifying periods are usually not applied in work accident and occupational disease schemes, as these are based on the civil liability of the employer and cannot be made dependent upon a prior time period.

Due to the absence of an employer that can be held accountable for work accidents or occupational diseases at a collective level, it may be justified to create a different social protection schemes for the self-employed. More effective coverage could be ensured by defining more clearly what constitutes an accident at work or an occupational disease, particularly for the self-employed. For occupational diseases and accidents at work, better medical checks or the systematic involvement of medical experts to determine the cause of the illness could help to understand whether this was a result of the professional activity. This is already common practice in Malta in the case of self-employed persons.

### **3.3 Sickness and health care**

Due to the universal nature of social protection schemes for health care in a large majority of Member States, self-employed and non-standard workers usually do not face restrictions to access health coverage. This is different in the case of sickness; for

both self-employed and non-standards workers, sickness benefits cover the risk of loss of income. However, as with other branches, it is difficult to determine the exact loss of income for self-employed, especially in the first period of sickness, as they may still be able to carry out parts of their work or benefit from a return from capital. As a consequence, waiting periods or qualifying records for self-employed and non-standard workers are often (significantly) longer than for standard workers. Due to the reduced working time or irregular work patterns of many self-employed and non-standard workers, the qualifying periods are often not met, hindering effective coverage.

Reducing waiting periods for self-employed people can also be feasible, especially if the income replacement benefit is constituted by a low flat-rate benefit, instead of a replacement based on previous income.

### **3.4 Maternity/Paternity**

The risks addressed by maternity and paternity benefits, i.e. work incapacity and consequent loss of income, are to some extent different for self-employed and non-standard workers, as the interruption of work in the case of self-employed could have a long-term effect on the business. The schemes in place in Member States are comparable to sickness schemes, meaning that similar problems with the entitlement conditions may emerge in both branches. For example, in the case of self-employed, the work incapacity and associated risks may be difficult to determine, as the absence of a parent on leave may not necessarily lead to an immediate loss of income but rather to a loss of manpower. In addition, the key role of employers in the benefit provision in many schemes can lead to problems for self-employed and non-standard workers.

To address such shortcomings in coverage, the criteria and type of benefits granted could be adapted to the needs of the self-employed and non-standard workers as much as possible, for instance by taking into account the demand for partial leave. In Belgium, income replacement benefits are combined with services to support the family in combining family life and work. This allows the self-employed to continue their business and retain their (part-time) earnings from the business. In Finland, home-care allowances can be combined in a flexible manner with non-standard work and benefits are guaranteed at least at a minimum rate for certain non-standard workers with low or no income.

#### **Example: Maternity vouchers for young mothers in Belgium**

Self-employed mothers are entitled to 105 service vouchers after giving birth from the social insurance offices within the framework of maternity benefits. These vouchers usually come in the form of payments to certified enterprises for the completion of household chores. Provided they meet the qualifying conditions, women are automatically contacted by the social insurance fund to ask if they would like to receive support. This has increased the number of self-employed women who benefit from maternity benefits.

### **3.5 Pensions and survivorship**

Both contingencies – old age and survivorship – compensate the loss of income, either due to having reached an age which prevents a person to continue to work or following the loss of a partner who was the main earner. These schemes traditionally rely heavily on the prior insurance record and reflect the years of work accrued over a long period of time, often having time and income thresholds as entitlement conditions. This can prevent effective coverage for the self-employed and non-standard workers, as they are often unable to accumulate uninterrupted work periods and the necessary income. As a consequence, these groups can face a reduced pension benefit. Survivors can face particular challenges if both the partner who passed away and the survivor are self-employed or non-standard workers;

furthermore, a survivor may not be eligible for benefits because they are not considered as such in schemes built on the basis of traditional family structures.

Effective coverage could be ensured by applying shorter time thresholds and allowing self-employed and non-standard workers to aggregate income from various kinds of work, as already done in the French pension scheme. In Poland, no income threshold is applied at all for those who reach the statutory pension age. Also, student jobs and apprenticeships could be made eligible. Furthermore, taking into account changing family structures, the definition of who is regarded as a survivor could be reconsidered, thus not only including spouses in the traditional sense. Persons with reduced pension rights can sometimes benefit from a basic (social) pension. However, this may jeopardise the sustainability of the system, also when considering the impact of demographic change. To avoid this, mandatory coverage could be applied to all types of workers.

### **3.6 Invalidity**

Invalidity addresses the risk of partial or full long-term work incapacity and the consequent reduced or complete loss of income. The same risk applies to self-employed and non-standard workers, as this is rather influenced by the sector or occupation than by the type of worker. In comparison to sickness, which often precedes invalidity, invalidity schemes generally allow the insured person to combine a partial benefit with a reduced income. This leads to challenges for the self-employed, as it is difficult to determine the extent to which the reduction of income is caused by the decrease in work capacity or by the economic situation, for instance. Similarly, as in other branches, it can be challenging to monitor the exact loss of income for the self-employed and non-standard workers due to the lack of fixed hours of work and income. In some countries, invalidity benefits are organised as a pension, and thus lead to similar issues as in the case of old age and survivorship.

In principle, self-employed and non-standard workers should be covered under the same (mandatory) schemes as standard workers. Compulsory rehabilitation benefits, including modifications of the work environment and tax breaks for employers, could be incorporated into invalidity schemes as activation measures that facilitate the re-integration into the labour market in the future.

## **4 Conclusion**

Member States need to adapt social protection systems and their eligibility conditions to ever emerging forms of non-standard work and self-employment in changing labour markets, considering also a move away from 'standard' family structures. They also need to take into account the respective specificities of self-employed or non-standard workers. At the moment, both groups face differing challenges to access social protection based on criteria which were originally defined for standard-workers; volatile income and varying contribution periods lead to inadequate benefits and shorter benefit duration.

Hence, the specific risks self-employed and non-standard workers face for the contingencies of invalidity, maternity and paternity, old age, sickness, unemployment or work accidents due to their work situation, need to be considered. This could be done by assessing income over longer periods of time, determining qualifying or waiting periods in smaller time periods (e.g. days), considering different types of jobs and time spent on informal care provision, and giving minimum support for people who do not meet income or time thresholds. In addition, non-monetary or in-kind benefits may be a way to support the specific situation of self-employed for some risks, such as vouchers for personal and household services for self-employed parents or vocational training for self-employed who face a downturn in their economic activity.

Member States also need to review low take-up of benefits, for example when sick self-employed cannot stop working, even if they are entitled to benefits. In general, a review of existing social protection system and the (re-)design of easily accessible, transparent and flexible social protection systems, including also different types of in-kind support, may be to the benefit of the entire workforce. It can support trust in the social protection system, improving their political and financial sustainability.

