

NATIONAL PLAN UNDER THE COUNCIL RECOMMENDATION  
ON ACCESS TO SOCIAL PROTECTION FOR WORKERS  
AND THE SELF-EMPLOYED

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## 1. CHALLENGES

### 1.1 Context in which the social protection systems operate at national level

The matrix of the Portuguese Social Security System is defined in the Social Security Framework Law<sup>1</sup>. According to this law, Social Security ensures social protection through three systems that correspond to different social protection levels, differing not only in terms of the respective social protection modalities but also in the way they are financed.

The public component of the Social Security system comprises:

- The **citizenship social protection system** that ensures social protection of a universal (non-contributory) nature and is implemented through three subsystems:
  - the **solidarity subsystem** that ensures the payment of social benefits aimed to combat poverty and social exclusion;
  - the **family protection subsystem** which is aimed to compensate for the increased burden associated with family enlargement and certain social risks in the disability and dependency areas;
  - the **social action subsystem** that ensures supports for the most vulnerable groups (children, young people, people with disabilities, elderly people and people in a situation of economic or social need, dysfunction or social marginalisation).
- The **welfare system** that guarantees the coverage of risks depending on the existence of a prior contributory relationship, through the payment of benefits aimed to replace professional income lost due to the occurrence of legally foreseen contingencies.

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<sup>1</sup>Law no. 4/2007 of 16 January, as amended by Law no. 83-A/2013 of 30 December.

- The **supplementary protection system**, of a voluntary nature, in which a person may supplement his/her contributory protection through the Public Capitalization Scheme.

In the **citizenship social protection system**, three realities may be distinguished, according to each of its subsystems. The **solidarity and family protection subsystems** are of universal nature, covering all national citizens and, in certain circumstances provided for by law, this coverage may be extended to foreign citizens<sup>2</sup>. Social benefits granted under these subsystems are of a non-contributory nature; however, they are mostly subject to means-testing<sup>3</sup>.

Social supports granted under the **social action subsystem** are of universal nature and essentially aimed at protecting the most vulnerable groups in society. All citizens may benefit from social services and facilities, which are promoted and supported by the State, through the conclusion of agreements and protocols with social solidarity private institutions (IPSS – *Instituições particulares de solidariedade social*) and other local partners.

The **welfare system** mandatorily covers employees, or persons legally treated as such, and self-employed persons. This system also includes persons without a professional activity or whose activity does not determine their mandatory coverage by any of the mentioned schemes and who wish to benefit from social protection<sup>4</sup>.

In what concerns civil servants, social protection is provided through two schemes:

- The **transitional social protection scheme for civil servants** that maintains the organisation and financing of the former civil service social protection scheme, covering the civil servants subscribing to the Civil Servants Pension Fund (CGA – *Caixa Geral de Aposentações*), hired until 31 December 2005;

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<sup>2</sup>Foreign citizens who work and reside in Portugal are subject to the same rights and duties as national citizens. In the solidarity subsystem, the granting of certain benefits to foreign citizens is, in some cases, subject to the fulfilment of certain conditions, namely: to be resident in the national territory or to have completed minimum periods of residence in Portugal.

<sup>3</sup>Means-testing comprises a set of conditions which a household must meet so that one of its members may be entitled to social benefits of a non-contributory nature. In practice, it defines the household maximum income limit for the access to a certain social benefit. Within the scope of the solidarity subsystem, the social benefits whose granting must be subject to means-testing are: the social integration income, parental allowances and unemployment social benefits, the solidarity supplement for the elderly and social pensions. In the family protection subsystem, means-testing is applicable to family benefits (child benefit, prenatal family allowance and scholarship).

<sup>4</sup>These persons are covered by the voluntary social insurance scheme which covers a more restricted set of contingencies, in comparison with the social security general scheme.

- The **social security general scheme** which is applicable in any contingency to the civil servants hired until 31 December 2005, who were already covered by this scheme, as well as to all the civil servants hired after that date.

In this context, in Portugal, the coverage against social risks arising from the participation in the labour market (sickness, parenting, unemployment, work accidents and occupational diseases, invalidity, old age and death) is ensured through the coordination of different contributory systems:

- the Social Security Welfare System, which covers the majority of workers,
- the Transitional Social Protection Scheme for Civil Servants, which covers civil servants hired before 2006, and the Pension Fund for Lawyers and Solicitors<sup>5</sup>.

Social protection under these schemes is based on **professional solidarity** and the **contributory principle**, being the access to income replacement social benefits ensured by the prior payment of social security contributions.

Workers are responsible for the **financing and payment of social security contributions** and, in the case of employees or economically dependent self-employed persons, it is the responsibility of the employers or contracting companies.

In situations of insufficient coverage by the contributory systems, the protection against social risks may be done through the payment of benefits from the **non-contributory system**, such as the unemployment social benefit, the solidarity supplement for the elderly and the social integration income.

The majority of self-employed persons, as well as atypical workers, are covered by the welfare system, as is the case of most employees.

For the purposes of mandatory coverage under the self-employment scheme, **self-employed persons** are all the natural persons carrying out a professional activity without being subject to an employment contract or a legally equivalent contract, or those who perform an activity for others, but, due to the nature of that activity, are not covered by the social security general scheme for employees, namely:

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<sup>5</sup>The Pension Fund for Lawyers and Solicitors (CPAS – *Caixa de Previdência dos Advogados e Solicitadores*) only covers the contingencies of old age, invalidity and death

- People who perform commercial, industrial, agricultural, forestry or livestock activities;
- Individual entrepreneurs and their spouses who effectively perform a professional activity with them, on a regular and permanent basis;
- Agricultural producers, their spouses or persons living with them in a *de facto* relationship, who effectively perform their professional activity on the farm, on a regular and permanent basis;
- Free professionals (including people who perform scientific, artistic or technical activities);
- Intellectual workers, namely authors of protected works in the literary, scientific and artistic fields;
- Partners or members of a free professionals' society;
- Partners of farming societies;
- Cooperative members who opt for the self-employment scheme;
- Workers receiving support for the creation of a self-employment activity;
- Spouses and persons who live in a *de facto* relationship with self-employed persons and individual entrepreneurs exclusively engaged in a commercial or industrial activity, who work with them, collaborating in the pursuit of their activity, on a regular and permanent basis.

In what concerns **lawyers and solicitors**, although carrying out a self-employment activity, they are not covered by the self-employed scheme, as they are mandatorily covered by their own social protection scheme managed by the Pension Fund for Lawyers and Solicitors.

**Owners of farms or similar agricultural holdings**, whose products are mainly intended for personal and family consumption, are excluded from the self-employment scheme provided that the gross annual income from the activity does not exceed four times the Social Support Index (IAS – *Indexante dos Apoios Sociais*) (corresponding to €1.755,24 in 2021).

With the entry into force of the Code of Contributory Schemes of the Social Security Welfare System in 2011, there were significant **changes** in the **Self-employment Scheme** at

the level of the income considered for the contribution base, the applicable contribution rate and social protection to be guaranteed.

In fact, in 2011, there was the change from a scheme in which the **contribution base** corresponded to a conventional remuneration chosen by the self-employed person from among ten income levels defined by reference to the Social Support Index (IAS) value, to **a system of convergence between the contributions to be paid and the income declared for tax purposes**, with a view to bringing the contribution base closer to the actual income earned by self-employed persons.

In what concerns the **material scope**, the previously established mandatory scheme covering the contingencies of parenting, occupational diseases, invalidity, old age and death, and another optional scheme that also covered the sickness contingency ceased to be applied, being currently applied a **single social protection scheme**, providing **all self-employed persons with social protection in all the identified contingencies**. The support for family expenses was already foreseen in the family protection subsystem and had universal coverage.

In addition, and taking into account the particularities of the various activities carried out by self-employed persons, **differentiated contribution rates** have been set. For agricultural workers, given the economic weakness of their activity, the contribution rate was set at 28,3% and for the majority of self-employed service providers, the contribution rate was set at 29,6%, and these rates guaranteed protection in the contingencies of sickness, parenting, occupational diseases, invalidity, old age and death.

Also, in what concerns self-employed persons who are individual entrepreneurs, or holders of a single-member limited liability company and their spouses, the contribution rate was set at 34,7 %, when it started to guarantee social protection in the event of activity cessation.

It should also be noted that, in 2011, the self-employment scheme started to foresee a new legal status, the **contracting entities**, with a view to protecting self-employed workers who carry out much of their activity for a single entity and, in this sense, are considered economically dependent self-employed persons.

In fact, considering the high level of dependence of these workers on the respective contracting entities, the legislator considered it necessary that the worker and the

respective contracting entity should share the responsibility for the payment of social security contributions for the services provided. To this extent, the entities that were annually determined as contracting entities became responsible for the payment to social security of a contribution rate of 5% for the services provided by self-employed persons. This measure was aimed to protect these workers in case of unemployment.

With the amendments to the scheme, introduced by the entry into force of Decree-Law no. 2/2018 of 9 January, with effect from **1 January 2019** (with the exception of Articles 140 and 168(7) – Contracting entities), **new changes were introduced in the self-employment scheme, aimed at combating precariousness in labour relations, preserving the dignity of work and increasing the social protection of self-employed persons.**

Therefore, the **most significant change** was the revision of the rules that determined the workers relevant income to be taken into account for the contribution base and contributions payment. The income earned in the most recent months began to be taken into account for the payment of contributions (i.e., the time between the contribution payment and the relevant income considered was reduced). This measure provides more social protection to self-employed persons as it significantly eliminates the previous cycle of contributions payment based on income stated a year ago or more. To this extent, self-employed persons who are not covered by the organised accounting scheme, when subject to a contributory obligation, must state, on a quarterly basis, the value of income earned from the production and sale of assets or services provided in the immediately preceding quarter.

The revision of the scheme in question also included a **reassessment of the contracting entities scheme**, introducing some changes in the protection of economically dependent self-employed persons by increasing the accountability of contracting entities in the contribution rate to be applied to the value of the services provided by the self-employed persons. Thus, in cases where the economic dependence of the self-employed person on the contracting entity is higher than 80%, the contribution rate increased from 5% to 10%, and in situations of economic dependence higher than 50% and lower than or equal to 80% the rate to be applied is 7%.

It should also be noted that these contributions are aimed to protect these workers in immediate contingencies, including **social protection in case of unemployment.**

In what concerns the **contribution rates** to be paid by the self-employed persons, the same decree-law provides for the **reduction of the respective amounts**, taking into account, on the one hand, the non-existence of an employer and, on the other, the need for a better understanding by these workers of the benefits from the increased social protection that this new scheme aims to guarantee. Therefore, in general terms, the contribution rate for self-employed workers decreased from 29,6% to 21,4%. In the case of **individual entrepreneurs and holders of a single-member limited liability company** and their spouses, the rate decreased from 34,75 % to 25,2 %.

Finally, it is also important to mention that this scheme has **introduced a minimum value of relevant monthly income to be considered, corresponding to a contributory obligation of €20,00 per month** (with registration of the worker's contributory career in the system), in order to prevent situations where the absence of an insurance career determines the non-fulfilment of the qualifying period necessary for the benefits granting, mainly immediate benefits, given the inherent fluctuations of the self-employed persons income.

### **Labour Market: Some background data**

According to the Employment Survey carried out by the INE – *Instituto Nacional de Estatística* (Statistics Portugal), in 2019 the employment rate (people aged 20-64) reached 76,1%, with the employed population being estimated at 4 913,1 thousand people (+ 1 % or 46,4 thousand people than in 2018), extending the cycle of employment increase that started in 2014. About 90% of the employed population worked full-time and approximately 83% were employees. 79,2% of employees had an open-ended contract, 19,2 % (close to 718,8 thousand people) a fixed-term contract and 3,2 % (about 130 thousand persons) a contract of another type (service contract – green receipts or similar).

In the same year, the unemployed population was estimated at 339,5 thousand people, having decreased by 7,2 % (26,4 thousand) compared to the previous year; this was the smallest decrease observed since 2014, when the unemployed population began to decrease. The unemployment rate stood at 6,5% and decreased by 0,5 p.p. in comparison with the previous year. This corresponds to the lowest annual unemployment rate in the series started in 2011. As for the unemployment rate of young people (aged 15 to 24) it stood at 18,3%, less 2,0 p.p. in comparison with the previous year, also corresponding to the lowest value of the series started in 2011.



In Portugal, also in 2019, self-employed persons/employers represented 4,8% of the employed population and self-employed persons/isolated workers represented 11,7% of the employed population.

In 2019<sup>6</sup>, from the 4,6% of workers in Portugal who had a second job, 0,5 % had two jobs as self-employed persons; 1,9 % worked as employees and self-employed persons and 2,2% had two jobs as employees. In comparison, the values in the EU27 were 4,2%, 0,3%, 1,5 % and 2,2% respectively.

In 2017<sup>7</sup>, the percentage of self-employed persons without employed staff, who were economically dependent on a single contracting entity, had a weight of 1,3% in the total of self-employed persons, and represented 0,2% of the total employed population. In comparison, the values in the EU27<sup>8</sup> were 2,8% and 0,4% respectively.

Portugal has provided support to self-employed persons by means of a monthly benefit during the pandemic, calculated on the basis of the worker's registered earnings, with a maximum limit amount of €438,81 and a minimum limit amount of €219,4.

## 1.2 Gaps in access to social protection

From the point of view of workers coverage by the social security schemes, in Portugal, most of the people who carry out a professional activity are mandatorily covered by the Social Security Welfare System.

In order to guarantee this coverage, the Social Security Welfare System, as it was previously mentioned, integrates the social security schemes applicable to employees, or workers legally treated as such for social security purposes, to self-employed persons and persons registered in the voluntary social insurance scheme. The Portuguese social security system is a unified system, in which the worker's contributory career is taken into account as a whole, regardless of the activity sector or the type of activity that is being carried out.

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<sup>6</sup> Eurostat – Labour Force Survey.

<sup>7</sup> Statistics Portugal (INE – *Instituto Nacional de Estatística*), Self-employment – ad hoc module of the Employment Survey, 2nd quarter of 2017.

<sup>8</sup> Eurostat – Labour Force Survey.

The Code of Contributory Schemes of the Social Security System defines the social security binding and contributory relationship for the three identified schemes, being the legal schemes of the various contingencies covered by their own legislation.

Notwithstanding the developments observed in terms of social protection and the social security system, it is recognised that workers who perform atypical forms of employment are in a more vulnerable situation, as these forms of employment are often based on precarious or less regulated labour relations, with impacts in the granting of unemployment and sickness benefits, or pensions.

In addition, and according to the EU-SILC (Eurostat) 2019 data, part-time workers, workers with non-permanent contracts and workers with contracts of less than one year, have a higher in-work at-risk-of-poverty rate compared to other categories of workers.

**In-work at-risk-poverty rate**

	2019	
	Portugal	EU
<b>Part-time</b>	24,0	15,1
<b>Full time</b>	9,9	7,5
<b>Permanent contract</b>	7,2	5,9
<b>Non-permanent contract</b>	12,4	16,2
<b>Contract of less than one year</b>	19,0	16,4
<b>One-year contract</b>	10,5	8,8

Source: Eurostat, EU-SILC

In fact, the self-employment scheme, as already mentioned in the previous section, guarantees the right of protection to these workers in the contingencies of sickness, parenting, occupational diseases, invalidity, old age and death. However, it is mandatory to take out insurance against accidents at work.

Self-employed persons who are individual entrepreneurs or holders of a single-member limited liability company, as well as self-employed persons considered economically dependent (who receive from a single contracting entity more than 50% of the total value of their annual income) are also covered in case of unemployment, through the allowances for cessation of activity.

Any failures in formal coverage relate almost exclusively to the absence of coverage in case of unemployment or cessation of activity of non-economically dependent self-employed persons. This situation still occurs because, due to the nature of self-employed work, it is difficult to prove the involuntary nature of unemployment. In general, the social security system guarantees a high level of formal coverage to all self-employed workers, meeting the requirements provided for in Paragraph 8 of the Recommendation.

Therefore, there were several amendments and adjustments in the self-employment scheme with a view to filling any gaps and shortcomings in these workers social protection. These amendments have met, in advance, the normative requirements of the Recommendation on formal coverage (§8), effective coverage (§9 and §10), adequacy of benefits (§11 to §14) and transparency of rules (§15 and §16). It is worth to highlight the ones that most directly ensure compliance with the provisions at European level:

<b>Formal Coverage</b>	Consideration of the economically dependent self-employed persons. Decrease from 80% to 50% of the minimum percentage of income earned from a single entity to consider a self-employed person as economically dependent. This change improved formal coverage, as it extended the universe of <u>self-employed persons covered in case of unemployment or cessation of activity.</u>
<b>Effective Coverage</b>	Establishment of a monthly relevant income amount with the corresponding minimum contribution amount of €20,00, to cover situations of lack of income or very low level of activity, in order to <u>prevent gaps in the worker's contributory career with negative effects in the effective coverage by the scheme and adequacy of the social benefits amounts.</u>
<b>Adequacy</b>	Reduction of the contribution rate to 21,4% (25,2% for individual entrepreneurs and holders of a single-member limited liability company, and their spouses). <u>Contributions to social security became more adequate to the contributory capacity of these workers.</u> This reduction worked at the same time as an incentive for the self-employed persons to be part of and contribute to the system;  Quarterly calculation of the contribution base according to the income earned in the immediately preceding quarter. Through this adjustment, the <u>calculation of social security contributions of self-employed persons became objectively closer to the actual income earned,</u> taking into account any fluctuations that may occur in the activity.

<p><b>Transparency</b></p>	<p>The changes in the self-employment scheme are based on a set of fundamental principles aimed to the consolidation of a trust relationship between self-employed persons and the social security scheme, namely: the reduction of the time between the contribution payment and the relevant income earned; more adequacy in the self-employed persons' social protection; the strengthening of the contributory effort sharing between self-employed persons and the contracting entities, in the case of self-employed persons with high or total income dependence from a single entity; as well as the simplification of procedures and the establishment of a more transparent relationship between the self-employed person and the social security scheme.</p>
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It is also important to underline that the integrated management of the self-employment scheme and the scheme for employees allows, since its implementation several decades ago, to remove administrative barriers to the portability of rights acquired by self-employed persons (§10) within the scope of the recognition of rights under the mandatory public schemes (1st pillar).

Also, the gaps within the scope of material coverage, linked to contributory evasion, undeclared work or the lack of formalisation of all self-employed work, are being progressively addressed by the reduction in social protection costs (contributory incentive) (§12), the adoption of contributory rules closer to the self-employed workers income level (§14) and the establishment of contributory reductions or exemptions (§13). These changes have resulted in an increase in the number of self-employed workers submitting contributory statements on a regular basis, with special incidence in 2019 and 2020.

## 2. LESSONS LEARNT FROM THE COVID-19 CRISIS

### 2.1 Gaps closed through temporary measures during pandemic

During the pandemic crisis caused by COVID-19, a set of measures was established in order to increase the protection of workers, companies and families, extending in some cases

the scope of protection of measures already in force or creating new supports to cover more workers.

These measures include:

- automatic extension of the time limits established for the granting of social benefits already in payment (unemployment benefit, unemployment social benefit, social integration income),
- more flexible qualifying periods for the granting of sickness benefits and unemployment social benefits<sup>9</sup>,
- extension of extraordinary support measures to members of statutory bodies of legal persons, with management duties, when they have employees at their service,
- more flexible rules for the Social Integration Income granting<sup>10</sup>,
- creation of a benefit to support the reduction of activity and the possibility of voluntary deferral for 12 months of the contributory obligations of self-employed persons and managers,
- creation of extraordinary support for vocational training,
- or even the granting of benefits from the social security general scheme to employees and self-employed persons who have to stay at home in prophylactic isolation or to provide care to children up to the age of 12 or, regardless of age, to children or dependent persons with disabilities.

According to Law no. 75-B/2020, in situations where the earnings that were used as the basis for calculating the unemployment benefit correspond at least to the national minimum wage, the unemployment benefit is increased in order to reach the minimum value corresponding to 1,15 times the Social Support Index (IAS – *Índice dos Apoios Sociais*) value, without prejudice to the limits of the unemployment benefit amounts provided for in Decree-Law no. 220/2006 of 3 November.

However, it turned out that, due to gaps in formal and material coverage, some workers and their families were not being covered by the existing social protection measures or by the new measures created during the pandemic crisis. In this context, we underline two

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<sup>9</sup> Decree-Law no. 20-C/2020 for unemployment; Article 19(2) of Decree-Law no. 10-A/2020.

<sup>10</sup> Article 3 of Decree-Law no. 20-C/2020.

important gaps that were filled to cover self-employed persons more effectively during the pandemic:

- the first is associated with the subsistence of self-employed persons carrying out an informal or undeclared activity; and
- the second concerns the effects generated by income fluctuations and contributory gaps at the coverage level (adequacy).

The measure introduced by Decree-Law no. 20-C/2020 of 7 May, has added, among others, the Article 28-B (to Decree-Law no. 10-A/2020), which provided for the registration in the social security system of those who need social protection, given that the benefit granting requires the worker to declare the beginning or resumption of an activity as self-employed person with the tax administration and maintain the activity for a minimum period of 24 months after the benefit payment ceases.

In addition, a social protection extraordinary support<sup>11</sup> was created for workers in a situation of economic and social lack of protection, without access to any social protection instrument or mechanism nor to the extraordinary and temporary social support measures created to respond to the SARS-CoV2 pandemic. This measure covered, namely, self-employed persons who were not registered in the social security self-employment scheme and informal workers.

The granting of this extraordinary support (1 x IAS between July and December 2020) determined the mandatory registration of these workers in the social security system and in the self-employment scheme for 30 months, so that they could begin or resume their contributory career.

Also, the extraordinary support for workers' income (AERT – Apoio Extraordinário ao Rendimento dos Trabalhadores)<sup>12</sup>, subject to means-testing, was created with the aim of

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<sup>11</sup> This extraordinary support was created by Law no. 2/2020 of 31 March, as amended by Law no. 27-A/2020 of 24 July. It is granted as an alternative to the extraordinary supports provided for in Article 26 (extraordinary support for the reduction of self-employed persons economic activity), Article 28-A (extraordinary measure to encourage professional activity) and Article 28-B (coverage of situations in which a person has no social protection) of Decree-Law no. 10-A/2020 of 13 March, whenever the value of these supports was lower than the one established in this Article. The extraordinary support introduced by Article 28-B was granted in the case of maintenance of an activity for a period of 24 months. It was subject to means-testing and granted for 2 months, amounting to 50 % of the Social Support Index (IAS) value.

<sup>12</sup> Created by Article 156 of the State Budget Law for 2021, Law no. 75-B/2020 of 31 December, for people who were in such situations as from January 2021.

ensuring the maintenance of income for persons in a situation of particular economic lack of protection due to the pandemic caused by COVID-19 disease. The granting of this extraordinary support also required the registration in the self-employment scheme of the workers who applied for it and were not covered by any social protection scheme.

Therefore, in addition to financial compensation, these measures worked as an incentive to the formal registration of self-employed persons in the self-employment scheme and the regularisation of their contributory situation, since the benefit granting in some cases requires the worker to declare the beginning or resumption of his/her self-employment activity with the tax administration and maintain the activity, as well as the mandatory submission of earnings statements and payment of contributions during a period of 30 months after the benefit granting. This period may be reduced if the worker was already complying with his/her contributory duties.

- *To what extent did the crisis lead to accelerating the extension of social protection systems to non-standard workers and the self-employed? In particular, which of the measures adopted during the pandemic are being mainstreamed or considered to be mainstreamed into the social protection system?*

Maintenance of incentives to formalise work and contributions payment.

On a more global level, the Green Book on the Future of Work (*Livro Verde do Futuro do Trabalho*) is being prepared; this document that will reflect on the ongoing changes in the labour market, including telework regulation and coverage, the establishment of rules and social measures aimed to protect work forms that are more difficult to formalise, such as the so-called "digital nomads" and work carried out through digital platforms.

### 3. POLICY OBJECTIVES AND MEASURES TO BE TAKEN

#### 3.1 POLICY objectives

In this context, the recent developments in the self-employment scheme should be taken into account, particularly the last scheme revision that entered into force on 1 January 2019, establishing innovative principles aimed at ensuring a more and fairer social protection (such as, the reduction of the time between the contribution payment and the income earned by the self-employed person, the reduction of the contribution rates, the extension

of the covered contingencies, the introduction of a minimum contribution amount to prevent situations of non-fulfilment of the qualifying period for the granting of immediate or deferred social security benefits, and the increase of the contracting entities responsibility in the contribution rate applicable to the value of services provided by the self-employed person).

It should be noted that there were no immediate changes in the material and personal scope of the self-employment scheme. In fact, Decree-Law no. 2/2018 of 9 January has reformulated the contributory scheme for self-employed persons with the aim of ensuring an effective social protection to these workers, without gaps or interruptions, preventing situations of non-fulfilment of the qualifying period for the granting of immediate and deferred social security benefits, due to large income fluctuations. Moreover, the promotion of a better balance between contributory duties and the rights of self-employed workers to an effective social protection has improved their access to the corresponding benefits. Within the scope of social protection, most of the self-employed persons are entitled, under their own scheme, to the same level of protection as the workers covered by the social security scheme for employees and the biggest difference lies on the entitlement to unemployment benefits.

Recognising that changes in the world of work, which are taking place at an increasingly intense and accelerated pace through technological, geopolitical, social and economic changes associated with different modes of production or the access to raw materials, imply a greater reflection at the level of inequalities, social dialogue, social protection and safety and health at work and, in order to respond to these challenges, the XXII Constitutional Government has undertaken in its programme<sup>13</sup> the commitment to draw up the Green Paper on the Future of Work.

The final version of the document, recently presented, recognises that changes in the world of work entail opportunities to create new jobs, but also challenges arising from the intensity of the pace of change, in which career patterns are increasingly volatile and there is a growing diversity of forms of employment, with the narrowing of boundaries between employment and self-employment as they were known. In this context, this document holds that, in order to continue to play their stabilising role, the social protection systems must also adapt to these dynamics.

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<sup>13</sup> Programme of the XXII Constitutional Government.



The access to social protection can be especially difficult for workers in atypical forms of employment and the gaps in the contributory career for the access to social security benefits may be bigger for self-employed persons, exposing them to greater social risks and poverty in old age.

According to the Green Paper on the Future of Work 2021 (LVFT – *Livro Verde Sobre o Futuro do Trabalho*)<sup>14</sup>, in short, it is important to take into account the new working models that are appearing, namely within the scope of digital platforms, in order to prevent that those who carry out their activity in this sector are left behind and penalised in terms of social protection.

Although, in Portugal, most of the people carrying out a professional activity are mandatorily covered by the social security welfare system, as previously mentioned, the access to social protection may be more complex for workers in atypical forms of employment, despite the changes that have been made to ensure that no one stays uncovered.

Therefore, the Green Paper on the Future of Work includes a set of reflections on changes of substantive and operational nature, aimed at improving effectiveness and adequacy to atypical work modalities, so that the social security duty of ensuring income replacement social benefits does not lose its efficiency, such as:

- ✓ To ensure the identification of the correct employment status, as a way of accessing rights and protections, collective bargaining and lifelong learning, by examining ways of improving legal and procedural mechanisms for this purpose;
- ✓ To extend social security coverage by promoting the registration of all workers in the social security systems, regardless of their legal bond, and ensuring coverage in the various contingencies (immediate and deferred) under the social security welfare system, through effective instruments that allow the access to adequate levels of protection to different categories of workers, provided that the qualifying periods established under the social security welfare system are met;
- ✓ To simplify the access to social protection systems for all categories of workers, promoting the reduction of bureaucracy, namely taking advantage of the new technologies;

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<sup>14</sup> <http://www.rep.mtss.gov.pt/-/livro-verde-sobre-o-futuro-do-trabalho>

- ✓ To implement a digital reform of social security and its relationship with companies, citizens and beneficiaries, including the focus on personalised responses to the beneficiaries, using artificial intelligence (measure already included in the Recovery and Resilience Programme – PRR – *Programa de Recuperação e Resiliência*);
  - ✓ To continue encouraging the entry into formal economy of undeclared or underdeclared workers, deepening the fight against undeclared work and abuse in the incorrect classification of workers, including the strengthening of penalty mechanisms when appropriate;
  - ✓ To diversify social security funding sources to enhance long-term financial, economic and social sustainability, namely by increasing the role of tax-funded social protection elements to strengthen the system and help to address gaps in the existing provisions, i.e. using universal and resource-based benefits to supplement work-related benefits and/or benefits from the contributory scheme;
  - ✓ To strengthen the social protection of workers in atypical forms of work, especially those who carry out more atypical activities with higher risk of precariousness, such as platform workers or workers carrying out occasional or very intermittent activities, among others, in order to ensure proper coverage of social risks, social cohesion, fair competition, and the financial sustainability of the social security systems;
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- ✓ In the case of digital platforms, to strengthen protection even in cases where there is no employment contract, clarifying the situations and conditions under which companies must pay contributions to social security, in order to avoid ‘unfair contributory competition’, given that, currently, for self-employed persons, the existing platforms only contribute to their social protection when they are economically dependent, as well as improving the coverage of normally less protected workers and the level of protection in the contingencies of sickness or occupational risks (see also the specific paragraph);
  - ✓ To promote more accountability of all those involved in the so-called atypical labour relationships, namely addressing the issue of responsibility in the payment of social contributions for an effective access to social security rights;

- ✓ To further strengthen the inclusion of self-employed persons in the social security system, reflecting on new adjustments to enable more effectiveness and adequacy of protection under the self-employment scheme;
- ✓ To promote social security coverage of the so-called digital nomads, whose option for an itinerant lifestyle and work while travelling around the world and working remotely is a challenge in the current model for the coordination of social security schemes (see also the specific paragraph);
- ✓ To strengthen the rights and protection of workers in the “grey zone” between employed and self-employed work, taking as a starting point the already established status of economically dependent self-employed persons and reflecting on mechanisms to ensure the correct qualification of these workers, while ensuring the rights and protection of workers who share simultaneously some features of the self-employed persons (e.g. the activity is carried out autonomously) and some features of the employees (e.g. they are economically dependent on a single client).

- ***Close the gaps in formal coverage already identified in the version 0 of the monitoring framework:***

There are no relevant formal gaps. Self-employed persons are covered in the contingencies of sickness, parenting, accidents at work and occupational diseases, disability, old age and death. Self-employed persons who are individual entrepreneurs or holders of a single-member limited liability company, as well as self-employed persons considered economically dependent (who receive from a single contracting entity more than 50 % of the total value of their annual income), are also covered in the contingencies of unemployment or cessation of activity; thus, it is guaranteed the principle of involuntary unemployment.

- ***Ensure the preservation, accumulation and/or transferability of entitlements:***

There are no issues in what concerns the preservation, accumulation or portability of rights in the access to benefits from the self-employment scheme, or any administrative barriers. The management of this scheme is carried out in an integrated manner with the scheme of employees, through a single contributory career.

- ***Improve the adequacy of social protection systems:***

The revision of the legislation also improved the adequacy of the scheme, namely in what concerns the payment of contributions. In fact, the changes in the self-employment scheme following the revision of rules for determining the relevant income of workers, among others, has enabled an increase in the contingencies covered by the scheme and an approximation of the value of protection to the work-related earnings.

- ***Improve transparency and simplify the administrative requirements:***

In what regards the modernisation, simplification and transparency of the social security system, the Portuguese government pursues the objectives of bringing citizens closer to the system and facilitating their access to information, based on the assumption of guaranteeing stability and predictability in the rules and guaranteeing sustainability of the social security system.

Therefore, in order to improve access to information and enhance the quality of services provided, in addition to the reactivation of the Social Security Contact Centre, a channel of permanent interaction between contributors and beneficiaries and the Social Security services, new IT features available online have been developed, which allow several operations that are extremely useful to citizens and companies.

As an example, we highlight the new features of the Social Security Online Service (*Segurança Social Direta*), which allow:

- the consultation of the contributory career and the history of benefits received,
- the electronic submission of a pension application and the forecast of the pension amount through an online simulator,
- the electronic submission of applications,
- the special ATM payment service for the payment of contributions of self-employed persons, the voluntary social insurance scheme and domestic service workers,

- the online service for self-employed persons, which allows these workers to fulfil their declarative and contributory duties under the new scheme.

These measures are part of the Modernization Plan of the Social Security Information System (*Plano de Modernização do Sistema de Informação da Segurança Social*), in which the “Strategy with You” (*A Estratégia Consigo*) was created, which includes a wide range of modernisation measures, some of which are part of the SIMPLEX+ Programme (*Programa SIMPLEX+*).

Still in the logic of deepening the digitalisation strategy of this area, the new Social Security Portal was launched in May 2021<sup>15</sup>, with a simpler and more intuitive organisation, easier access and the provision of content in a user-centred approach. This Portal, with creativity and innovation in usability and design, aims to meet the needs of citizens and employers, deepening the commitment to adapt to mobile devices, and complying with all accessibility standards, in order to ensure the access and inclusion of all citizens. This new Portal also ensures more security in the access to information.

It also became possible to schedule, through the SIGA service, an appointment with the social security customer information services via videoconference, which until now was only possible after contacting the services by phone, via the Social Security Line (300 502 502).

A new platform for the dissemination of statistics was also launched, providing information in an interactive way (*Business Intelligence*). The information is now available through tables and allows for a simpler understanding and reading of the Social Security system main indicators, such as the ones concerning social benefits. This new platform is also providing information on the declared remuneration and contributions of employees and self-employed persons, being the data analysis still possible by downloading the respective files. In addition, some methodological changes were introduced.

It should also be mentioned that the Recovery and Resilience Programme includes a set of reforms and investments within the scope of the ‘Modernisation’ flagship initiative, which, among others, is aimed to strengthen the digital transition in the various dimensions of the Social Security system, taking advantage of innovative technologies through the modernisation of the Social Security transactional channel, the change of paradigm in the relationship with citizens and companies, the optimisation of the contribution cycle of

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<sup>15</sup> [www.seg-social.pt](http://www.seg-social.pt)

citizens and companies, as well as the extension of the contribution base and improvement of efficiency in the inspection and cooperation areas. It is also aimed to focus on simplification, dematerialisation and automatic granting of social benefits to guarantee that they are paid more swiftly to the beneficiaries. The objective is also to ensure quality, coverage and resilience in public services provision, using the digital means, but leaving no one behind. With the reinforcement of the human resources of the entities within the Social Security perimeter, as well as the strengthening of investment in information systems, the aim is to provide a swifter and more efficient social response to the citizens.

- ***Address gaps in data about access to social protection***

The social security website was recently renewed, being improved the availability and access to information on social protection. The investments foreseen in the Recovery and Resilience Programme in terms of digital transition will also allow the access to a more comprehensive treatment of the available information.

- ***Finance the follow-up measures being considered at national level, mentioning also the extent to which such measures are reflected in the national Recovery and Resilience plans and the relevant programmes for the next Multiannual Financial Framework:***

### 3.2 Measures

The pandemic has significantly changed the labour market situation, requiring the adoption of a set of extraordinary measures to protect employment and companies, including social protection measures particularly aimed at the most unprotected people.

This section highlights the measures adopted during the pandemic, with provisions aimed at the coverage of workers excluded from the social protection system, namely through their mandatory declaration of beginning or resumption of self-employed activity with the tax administration and maintenance in the self-employment scheme during a relatively long period of time.



Social support for unprotected workers (informal workers) – Article 28-B of Decree-Law no 10-A/2020	
Aim of the measure	To financially compensate self-employed persons affected by the suspension of activities or closure of facilities and establishments due to legislative or administrative determination from a governmental source, in a state of emergency, within the scope of exceptional and temporary response measures to the SARS-CoV-2 pandemic. Formalisation of employment/contributory relationship for a period of at least 24 months.
Specific target (sub-)group	Self-employed persons who, not being covered by a national or foreign social security scheme, declare the beginning or resumption of a self-employed activity with the tax administration.
Branch/risk that is covered	Unemployment/Suspension of activity.
Expected results	Increase in the number of workers covered by the social security self-employment scheme.
Timeline for implementation	The one foreseen in the legislation.
Financial resources allocated	
Implementing bodies and cooperation with stakeholders	
Evaluation	

Social protection extraordinary support for workers in a situation of economic and social lack of protection (Article 325-G – Law no. 27-A/2020 of 24/06)

Aim of the measure	To financially support workers who do not have access to any social protection instrument or mechanism, nor to the social supports created within the scope of exceptional and temporary response measures to the SARS-CoV-2 pandemic. The legal bond to the social protection system must be kept for a period of 30 months after the end of the benefit granting period.
Specific target (sub-)group	Employees or self-employed persons whose activity ceased and who are in a situation of economic and social lack of protection.
Branch/risk that is covered	Cessation, reduction or suspension of activity, or loss of at least 40 % of the earnings
Expected results	Increase in the number of workers covered by the social security self-employment scheme.
Timeline for implementation	The one foreseen in the legislation.
Financial resources allocated	EUR 38 million
Implementing bodies and cooperation with stakeholders	The Social Security Institute, P.I. (ISS, I.P. – <i>Instituto da Segurança Social, I.P.</i> )
Evaluation	

**Extraordinary Support for Workers' Income (AERT) – Art. 156 of the State Budget Law**

Aim of the measure	To ensure the maintenance of income of workers in a situation of particular economic lack of protection due to the pandemic caused by the COVID-19 disease.
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Specific target (sub-)group	People in a situation of particular economic lack of protection due to the pandemic caused by the COVID-19 disease, including informal workers – registration in the self-employment scheme of workers who applied for this exceptional support and were not covered by any social protection scheme (this legal bond must be kept during the benefit granting and for the following 30 months).
Branch/risk that is covered	Unemployment (absence of activity)/People in economic and financial need (benefit subject to means-testing)
Expected results	Increase in the number of workers covered by the social security self-employment scheme
Timeline for implementation	
Financial resources allocated	
Implementing bodies and cooperation with stakeholders	The Social Security Institute, P.I. (ISS, I.P. – <i>Instituto da Segurança Social, I.P.</i> )
Evaluation	

#### 4. WAY FORWARD

- **What are the main challenges foreseen in implementing these measures (in relation to the specific areas of the Recommendation)?**

The measures reported here, within the scope of the response to the situation caused by the COVID-19 pandemic, are mostly of a temporary and exceptional nature and aimed to protect workers in the pandemic situation.



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- ***What type of EU support is needed to help you implement the Recommendation and the national plan?***
  
- ***Are there further challenges in access to social protection systems, not addressed by the Recommendation?***

The challenges were identified in paragraph 3.1 (They are in line with the future challenges identified in the Green Paper on the Future of Work).