

Information on the Implementation of the Council Recommendation on access to social protection for workers and the self-employed in Bulgaria

Republic of Bulgaria made an updated detailed analysis of the text of the Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed (hereinafter “Recommendation”), as a result of which we would like to note the following:

Under para. 19 Member States **are recommended** to implement the principles set out in the Recommendation as soon as possible and submit a plan setting out the corresponding measures to be taken at national level, by 15 May 2021.

One of the main objectives of the Recommendation is to support all self-employed persons and persons in non-standard employment who due to the type of their contract or their status on the labour market are not protected to a sufficient extent by the social protection schemes with regard to all branches of social security.

In this regard, we would like to point out that the Bulgarian legislation and in particular – the Social Insurance Code (hereinafter “SIC”), regulates an exceptionally wide circle of insured persons. These are all the persons carrying out economic activity (hired and self-employed persons) on a legal basis. The circle of obligatorily insured persons for all social insurance risks includes all workers and employees, regardless of the nature of their work, the mode of payment and the source of financing, including non-standard workers (workers and employees, working under fixed-term employment relationships, on a part-time basis, on additional or second labour contract, etc.). They are all insured for general disease and for maternity, disability due to general disease, old age and death, accident at work and occupational disease and unemployment.

That is why, with regard to the expansion of **the formal obligatory coverage for all workers**, the Recommendation does not create additional obligations and requirements for Bulgaria and in this regard **no need of amendments in the national insurance legislation is identified**.

As regards self-employed persons, according to the applicable provisions of the Bulgarian legislation, they are obligatory insured for disability due to general disease, old age and death. These persons can also be insured for general disease and maternity which provides an opportunity for them to receive benefits in cash for temporary inability to work, pregnancy, childbirth, raising a child, etc. from the state public insurance funds.

In regard to the **insurance for unemployment**, the Bulgarian legislation regulates the possibility for additional voluntary insurance for unemployment and/or professional qualification. It is carried out through the funds for additional voluntary insurance on the grounds of the funded principle, as the contributions get accumulated in the individual account of every insured person. These funds are set up and managed by licensed insurance companies for unemployment and/or professional qualification.

In accordance with the provisions of SIC, the following categories of persons may voluntarily insure themselves or be insured in the funds for additional voluntary insurance for unemployment or professional qualification, through conclusion of a contract with an insurance company for unemployment and/or professional qualification: workers and employees; persons registered as practicing freelance professions, craftsmanship, farmers or tobacco producers; persons, practising economic activity as sole entrepreneurs, owners or partners in trade companies; etc.

Contributions shall be made for insurance in a fund for additional voluntary insurance for unemployment or professional qualification by the insured person and/or his insurer. The contributions shall be in cash - one off, monthly or for another period of time. They may be paid by individuals (at their expense); employers, who are insurers (for their workers and employees) and other bodies who are insurers. Contributions paid by the insurer shall not oblige the insured person to pay contributions at their expense.

SIC regulates in detail the conditions for receiving cash benefits, the rights of the insurers, insured persons and their heirs, the content of the insurance contract, the fees and charges, the tax reliefs used by the persons and their insurers, etc.

Regarding **the insurance for accident at work and occupational disease**, during the discussions before the adoption of the Recommendation Bulgaria had consistently been expressing our disagreement in principle concerning the expansion of the insurance for this risk to self-employed persons. Not only in Bulgaria but also in the legislation of other EU Member States the insurance for accident at work and occupational disease is envisaged only for workers and employees. This is because unlike the damage to health due to general disease for which, in accordance with the Bulgarian legislation, self-employed persons are entitled to insure themselves if they wish, and which is “general” because it does not depend on the connection with the performance of certain work or employment activity, the accident at work is present only when the so-called “functional connection” between the caused damage and the work performed is established, i.e. the damage to health must have occurred during and in connection with or on the occasion of the performed work, or during the performance of work in the interest of the enterprise. As a result, it is necessary for this damage to have caused temporary inability to work, permanently reduced ability to work or death. An exception to this requirement is provided only for the so-called „equalized accidents at work“ (art. 55, para 2 of SIC), which are associated with the movement of the worker or employee from and to their working place to the main place of living, the place where they usually eat during the working day and the place for receiving remuneration. This also applies for the occupational disease where a causal link between the disease and the occupational damage associated with the performed work is necessary to be established, i.e. the disease has occurred exclusively or primarily under the influence of the harmful factors of the working environment or the working process over the human organism.

It is also important to stress that self-employed persons who insure themselves for general disease and maternity are not deprived of the opportunity to receive cash benefits at the occurrence of temporary inability to work, including in the workplace.

Since all Bulgarian citizens are obligatorily health insured in the National Health Insurance Fund, regardless of the fact whether they are insured in the state public insurance funds, including in the fund “Accident at work and occupational disease” or fund “General disease and Maternity”, they will receive the necessary benefits in kind, in accordance with paragraph 3.2 letter b) of the Recommendation.

Republic of Bulgaria supports the objective of the Recommendation envisaging improvement and extension of the scope of social protection of the employed persons, especially of those working in atypical modes of employment, and of the self-employed persons, however, in our opinion, **the expansion of the scope of the formal coverage of self-employed persons for accident at work and occupational disease, even on a voluntary basis, is incompatible with the core principles of the Bulgarian insurance model.**

These arguments were presented during the meeting of the Employment, Social Policy, Health and Consumer Affairs Council, held on 6-7 December 2018, at which the Recommendation was adopted, and at the request of the Republic of Bulgaria a statement was inserted into the minutes by virtue of which, regardless of our support for the proposal in its entirety, we confirmed the incompatibility of the extension of the scope of social protection of the self-employed persons for accidents at work and occupational disease with the national insurance model.

In view of the above, Republic of Bulgaria considers that the current state is in conformity with the main objectives of the Recommendation (ensuring persons’ formal coverage, effective coverage, adequacy and transparency for all workers and self-employed), therefore **Bulgaria does not identify the need to implement measures** related to the application of the Recommendation.