

German National plan under the Council Recommendation on Access to social protection for workers and the self-employed

15th May 2021

The Council Recommendation on Access to social protection for workers and the self-employed invites Member States to adopt and submit a plan setting out the corresponding measures to be taken at national level. In the plan at hand, information on measures adopted in light of the COVID-19 crisis and beyond will be presented. The first section will outline the main challenges in Germany, the second section will elaborate on measures taken during the COVID-19 pandemic and the last section will focus on more general measures taken to meet the goals of the council recommendation.

1. Challenges

The basic social protection scheme for old age and in case of reduced earning capacity provides for an individually calculated socio-cultural subsistence level for all, regardless of work status. It is means tested and tax financed. Additionally, there are mainly contributory pension schemes. The self-employed are well covered by health and long-term care schemes. However, there are gaps in coverage for compulsory pension schemes regarding the self-employed.

The German pension system follows a 3-pillar model: the statutory pension insurance (SPI), the company pension and private pension provisions. Each person can voluntarily take measures for private provision e. g. through life insurance. Overall, the SPI provides for a reasonable coverage for employees, but is also open to the self-employed. Depending on profession, some self-employed people have compulsory insurance in the SPI under special conditions or in special schemes. All other self-employed people can join the SPI scheme on a voluntary basis or can opt for a compulsory scheme.

2. Lessons learnt from the COVID-19 crisis

The corona crisis poses enormous challenges for the labour market and social protection in Germany. With the “social protection packages”, the adaptations made to short-time work and many other measures, the German government has taken measures to avert the occurrence of existential hardship due to the economic effects of this crisis.

The “social protection packages” adopted by the federal government are meant to cushion the social and economic impact of the Corona pandemic on all citizens, in particular employees and self-employed persons.

Unemployment insurance/ Extension of short-term work schemes

Any employee covered by social unemployment insurance has a claim to short-time work allowance under certain circumstances. Access to short-time work has been simplified. The maximum duration of support for income loss through work loss has been extended from 12 to up to 24 months for all companies taking up short-time work by 31 December 2020 at the latest, and limited to 31 December 2021. The liquidity of employers is protected by ways of reimbursing 100 percent of the social security contributions they have to pay during short-time work through the Federal Agency of Labour. In view of the fact that pandemic driven short-time work tends to last longer and is of a larger extent, the short-time work allowance has been elevated from 60/67 percent to up to 80/87 percent of the net wage depending on the duration and the extent of short-time work. As a further means to enhance household income during short-time work, rules were set up for additional income not being deducted from short-time work allowance. Thus earnings from marginal employment (up to 450 Euros per month – “Mini-Job”) taken up during short-time work are not counted against the short-time work allowance. Finally, the short-time work scheme has been opened up for temporary workers and tax exceptions for top-up payments of employers were enlarged.

It has to be pointed out, that these measures have been taken gradually - each as the pandemic and its consequences for the economy developed and more support was required. All measures are time limited in order to make sure that standard rules come into effect without further action being necessary.

Minimum Income

In general, workers and the self-employed can apply for minimum income support for jobseekers (“unemployment benefit II”) if they do not earn an income covering their needs and do not have assets for securing their livelihood. During the pandemic, Germany has chosen to ease some requirements for the provisions of minimum income support temporarily. These simplifications make sure that particularly the self-employed who are temporarily out of work due to the pandemic, but who would otherwise not have to rely on social security benefits, get the funds needed to secure a living while keeping more savings than the regular requirements would allow. In addition, accommodation costs above the regular thresholds are also covered temporarily by minimum income support.

Unemployment benefits

Germany prolonged the duration of unemployment benefits for three months for workers whose entitlement would have ended between 1 May 2020 and 31 December 2020. The temporarily eased requirements for minimum income support for jobseekers (Unemployment

benefit II) already mentioned helps workers whose entitlement to unemployment benefits ends. They also can rely on social security benefits and get the funds needed to secure a living while keeping more savings than the regular requirements would allow. In addition, accommodation costs above the regular thresholds are also covered temporarily by minimum income support.

Social Guarantee

In order to prevent an increase in non-wage labour costs caused by the COVID-19 pandemic, the federal government has issued a “social guarantee” for the years 2020 and 2021, stabilizing social security contributions at a maximum of 40% by covering any financial requirement in excess from the federal budget. This protects employees net incomes and strengthens employers competitiveness

Short-term employment

Short-term employment is employment limited to a maximum of three months or 70 working days in a calendar year according to its special nature or limited in advance by contract, unless the activity is performed on a professional basis and the wages for it exceed 450 euros per month.

Due to the particular challenges posed by the Corona pandemic, especially for agriculture, the German parliament has decided to temporarily extend the time limits for short-term employment. Accordingly, short-term employment will be extended temporarily to 102 working days or four months until October 31, 2021 (regular: 70 working days or three months). This special regulation is expected to come into force at the end of May 2021.

In addition, changes in the registration law have been adopted to create more transparency in short-term employment relationships. This is achieved through two regulations that will apply from January 1, 2022. In the future, employers will be required to report the existence of health insurance coverage to the “Minijobzentrale”. In addition, the employer will in future receive feedback from the “Minijobzentrale” as to whether the employee has already had other short-term employment in the calendar year. This will make it easier for employers to check whether the employee is employed on a short-term basis without paying contributions or whether he or she is subject to social insurance contributions.

Accident insurance

In times of pandemic, it has been shown that the accident insurance system has coped well with the challenges caused by Covid-19. In the German statutory accident insurance system,

COVID-19 infections in the occupational environment can be recognized as an occupational accident or disease. As a result, in these cases sufferers are entitled to all the benefits provided by the statutory accident insurance system, as is the case with other occupational accidents

Artists' social insurance (Künstlersozialversicherung)

Self-employed artists and publicists are subject to insurance under the Artists' Social Insurance Act and are insured under the statutory health insurance and long-term care insurance schemes and the statutory pension insurance scheme. Temporary measures have been taken for this group of people so that they do not lose their insurance coverage during the pandemic due to the loss of their income. Additionally, responding to the “social guarantee”, the contribution rate for companies to the artists' social insurance will remain stable in 2021 and 2022 through increased public subsidies.

Pensions

Additional earnings limit for early retirement pensions: Due to the COVID-19 pandemic, the limit for additional earnings in the statutory pension insurance (GRV) has been temporarily raised from EUR 6,300 to EUR 44,590 for 2020. At the same time, the supplementary earnings limits for early retirement pensions in the special pensions insurance system for farmers (AdL) were entirely suspended for a limited period.

Continuing to work or resuming employment after retirement was also made easier in 2021. An increased earnings limit of 46,060 EUR annually for 2021 applies in the statutory pension insurance for early retirement pensions. In the case of early old-age pensions in the special pensions insurance system for farmers, the supplementary earnings limits for the year 2021 have again been suspended.

Orphans Pensions: Special provisions ensured that orphans' pensions would (continue to) be paid even if, as a result of the COVID-19 pandemic, training and voluntary services of orphans began later than usual. In addition, the assessment period of three years for permanent pensions was extended by a period of six months after the end of the COVID-19 pandemic.

Health insurance

Regarding the coverage of the self-employed in Germany it is mandatory for all citizens and permanent residents to have health insurance. This generally includes self-employed persons, who can be insured either through statutory or private health insurance. In the

private health insurance system, a reform of the basic tariff (“Basistariff”) was implemented in the year 2020.

Since 1 January 2009, health insurance companies are obliged to offer a basic tariff. The contractual benefits of the tariff are comparable to the benefits of the statutory health insurance. The private health insurance companies are not allowed to reject anyone who is allowed to take out insurance in this tariff. The contribution to the basic tariff is limited to the insurance premium of the maximum amount in the statutory health insurance.

The reform established a right to switch back from the basic tariff to the original tariff without a new health check, as long as the insured person was insured in the basic tariff for a maximum of two years. This can be the case e.g. if the privately insured person was in need of unemployment benefits due to the COVID-19 pandemic and changed to the basic tariff for a limited amount of time. However, the reform is permanent and can be applied on other occasions than the pandemic.

Sickness benefit schemes

In principle, self-employed persons in Germany have access to health insurance, including a sickness benefit system. Self-employed persons in the statutory health insurance can opt to include a sickness benefit scheme. Self-employed persons in the private health insurance may make a separate contract for a sickness benefit scheme. During the pandemic, sickness benefits in the statutory health insurance have been temporarily extended in case of illness of a child.

Family leave and care arrangements

Caregiver Leave Act (Pflegezeitgesetz, or PflegeZG) and Family Caregiver Leave Act (Familienpflegezeitgesetz, or FPfZG): Employees have the right to stay away from work for up to ten working days if this is necessary in order to organize needs-based care for a close relative in need of care in an acute care situation or to ensure nursing care during this time (Short-term absence from work). In addition, they may claim a wage compensation benefit – the carer’s grant which is limited up to ten working days.

Caregiver Leave (Pflegezeit) means that employees have the right to a complete or partial release from work for up to 6 months in order to care for a close relative in need of care in their home environment. During this time, they may request an interest-free loan from the Federal Department for Family and Civil Society Affairs (Bundesamt für Familie und zivilgesellschaftliche Aufgaben – BAFzA).

If close relatives are in need of LTC for a longer time, reconciling care and work can become a challenge for many families. Therefore, carers are entitled to a Family Caregiver Leave

(Familienpflegezeit), a legal claim to partial release from work for up to 24 months with a minimum working time of 15 hours per week. Entitled persons can also request support by means of an interest-free loan.

It is also possible to apply for a complete or partial release from work for up to 6 months or a partial release for up to 24 months to care for a child in need of LTC, even if care is not provided at home, but in a residential setting. Entitlements for the different leave schemes vary according to the size of the enterprise: Whereas the right to short-term absence from work and carers' grant apply to all employers irrespective of the size of the company, a legal entitlement to Caregiver Leave is not granted in companies with 15 or less employees.

According to the Family Caregiver Leave Act there is no legal entitlement if employers have 25 employees or less, excluding employees undergoing vocational training.

The corona crisis is placing a heavy burden on the families of those in need of care.

Caregiving relatives therefore need flexible support offers. In order to ensure more flexibility for the take-up of Caregiver Leave and Family Caregiver Leave during the COVID-19-pandemic, the following changes have been introduced by the Caregiver Leave Act and the Family Caregiver Leave Act (temporarily until the 30th June of 2021):

- Increased possibility to stay away from work for up to 20 instead of 10 working days and receive carers' grant for up to 20 instead of 10 working days (acute care situations)
- Flexible use of the caregiver leave and the family caregiver leave. Employees with concurrent care responsibilities can continue to use Family Caregiver Leave and Caregiver Leave more flexibly if the employer agrees:
 - Anyone who has not yet used up the maximum period of time off for dependent relatives can again take leave from work. Multiple uses are possible during the pandemic and the exemptions do not have to be taken immediately afterwards.
 - It is sufficient to give written notice of the Family Caregiver Leave to the employer at least 10 days before it begins.
 - The announcement of Caregiver Leave and Family Caregiver Leave can still be made in any text form instead of on paper, so an announcement by e-mail is sufficient.
 - During Family Caregiver Leave, dropping below the minimum working time of 15 hours per week is possible for up to a month.
- Normally the amount of the interest-free loan depends on the level of income. A lower income, caused by pandemic measures, can be disregarded in the calculation of the interest-free loan. This is possible upon request to the competent authority (BAFzA).

Covid-19 support schemes

As a reaction to the detrimental effects of the COVID-19 crisis on businesses (both companies and self-employed), several support schemes have been devised in order to compensate for decreases in turnover due to COVID 19 related restrictions.

New Start Assistance „Neustarthilfe“: Own account workers and small corporations whose business operations are impaired by the pandemic can benefit from a one-time funding of up to 7,500 Euros (for corporations with up to 4 eligible shareholders up to 30,000 Euros), the so called New Start Assistance (“Neustarthilfe”). The program comprises a funding period of 6 Months (January 2021 to June 2021) and addresses specifically own account workers and small corporations with low fixed costs, for whom compensation for fixed costs under Bridging Assistance III (“Überbrückungshilfe III”) is not an option. Additionally, it targets workers in short-term employment in performing arts and individuals in discontinuous employment in all sectors. New Start Assistance is calculated as 50 percent of a six-month reference turnover (as a general rule, calculated based on the 2019 annual turnover). The New Start Assistance is paid in advance. In case of a decline in turnover during the funding period of 60 percent or more, compared to the reference turnover, recipients can keep the total amount of funding. Otherwise, the funding has to be paid back in part, depending on the amount of the decline. Applicants cannot ask for funding under the New Start Assistance scheme and reimbursement of fixed cost under the Bridging Assistance III scheme at the same time. Natural persons can make use of a direct application procedure while corporations have to go third parties (e.g. tax consultants, lawyers). Funding in the New Start Assistance scheme does not reduce entitlements to basic social security provision (e.g. unemployment benefits).

Bridging Assistance („Überbrückungshilfe“): In addition, the Bridging Assistance, a temporary aid scheme has been set up to compensate companies, self-employed and own account workers in all sectors for severe decreases in turnover due to the pandemic. The scheme compensates for fixed costs dependent on the decline in turnover, and provides for an additional payment to strengthen equity.”

3. Policy objectives and measures to be taken

In this section, we will elaborate the efforts that are being taken to close these gaps and to reach the objectives of the Council Recommendation on Access to social protection for workers and the self-employed.

Mini-Jobs

“Mini-jobbers” (employees working in jobs that are paid no more than 450 Euro per months) are generally exempt from insurance contributions with the exception of pension insurance. They pay a contribution equal to 3.6 per cent of their gross earnings and can be exempted from the obligation to pay pension insurance upon application.

Employers of “mini-jobbers” pay 30 per cent lump-sum contributions (15 per cent statutory pension insurance, 13 per cent statutory health insurance and 2 per cent tax), contributions to the insolvency fund and the levies stipulated by the Act on the Protection of Working Mothers and the Continuation of Wage Payments Act plus the respective contribution to the statutory occupational accident insurance system. The employer also has to pay the flat-rate pension insurance contribution equal to 15 per cent of the employee’s gross wages even when the mini-jobber has been exempted from the obligation to pay pension insurance. In the case of mini-jobs in private households, particular rules apply.

The priority is to promote employment subject to social security contributions. As of July 1, 2019, the former „Gleitzone“ was therefore further developed into a transitional area with a contribution privilege in the case of gross earnings above 450 euros up to 1300 euros (midi-job). In this, employees receive the full protection of social insurance, but only have to pay reduced contributions, and without any loss in their old-age pension, unemployment and sickness benefits. This is an additional incentive for mini-jobbers to take up employment subject to social insurance contributions in the future.

Pensions

Formal and effective coverage: In principle, all self-employed persons have access to pension insurance. They are either compulsorily insured or can apply for compulsory or voluntary insurance. In Germany, the statutory old-age pension provision consists of a number of statutory pension schemes. In addition to the Statutory Pension Insurance (SPI), that covers the great majority of the employees, there are other compulsory systems e.g. for the farmers or the liberal professions. Persons who are not subject to compulsory pension

insurance have access to voluntary insurance in the SPI or can opt for a compulsory scheme in the SPI.

Adequacy: In January 2021, a new law came into force, introducing a basic pension supplement (Grundrente) for individuals with at least 33 years of mandatory contributions to the Statutory Pension Insurance (SPI) and low earnings, depending on their contributions and a proof of income. The supplement is individually calculated and currently averages 75 Euros/month. The minimum time of 33 years requires long-term compulsory contributions. Times of nonpaid (child)care in the first three years of life for example can also count as contributions. Self-employed persons who have voluntarily taken out compulsory insurance in the SPI, can also benefit from the basic pension supplement, provided they meet the other requirements. The basic pension supplement aims at respecting the life-performance of persons who contributed to the SPI for long periods of time, and thereby strengthening confidence in the SPI. Besides, as a pension increasing measure for low-income earners with long contribution periods, it can also contribute to the adequacy of the pension system, even if this is not the aim of the law.

Approximately 1.3 million people will benefit from the basic SPI pension supplement in the initial year, 70 % of whom are women. On the basis of the OECD's calculation of the TRR for the Pension Adequacy Report 2021 (PAR), the predicted gross replacement rate of a low-income earner for 2059 increases in the so called base case scenario by 7.6 percentage points due to the basic pension supplement. The right to a basic pension supplement is examined by the Statutory pension insurance (SPI) without an application requirement. This ensures that no one does not take advantage of his /her claim out of ignorance (see recital 22 of the Council recommendation).

Transparency: The law on a Digital Pension Overview, which came into force in February 2021, is intended to enable citizens to obtain information about their individual old-age provision from all three pillars (statutory, occupational and personal pension provision) and to identify possible need for action. Everything at a glance, digitally accessible via a portal that will be available to citizens starting in the fall of 2023. The digital pension overview aims to create transparency and improve citizens' knowledge of their individual old-age provision. In addition, it provides an incentive to take a closer look at the topic of old-age provision. This can indirectly contribute to the further dissemination of supplementary personal pensions and occupational pensions and thus to improving the standard of living of citizens in old age.

Social security for platform workers

The Federal Ministry of Labour and Social Affairs wants to involve online labour platforms in the social security of self-employed workers. However, this has not been discussed within the government so far.

General considerations for self-employed

In German constitutional law the freedom of coalition is covered by Art. 9 of the Basic Law. This fundamental right does not apply only to employees and trade unions, but also to self-employed persons. However, in practice, self-employed persons face challenges in representation. Thus, the German government encourages self-employed to organise themselves.

4. Way forward

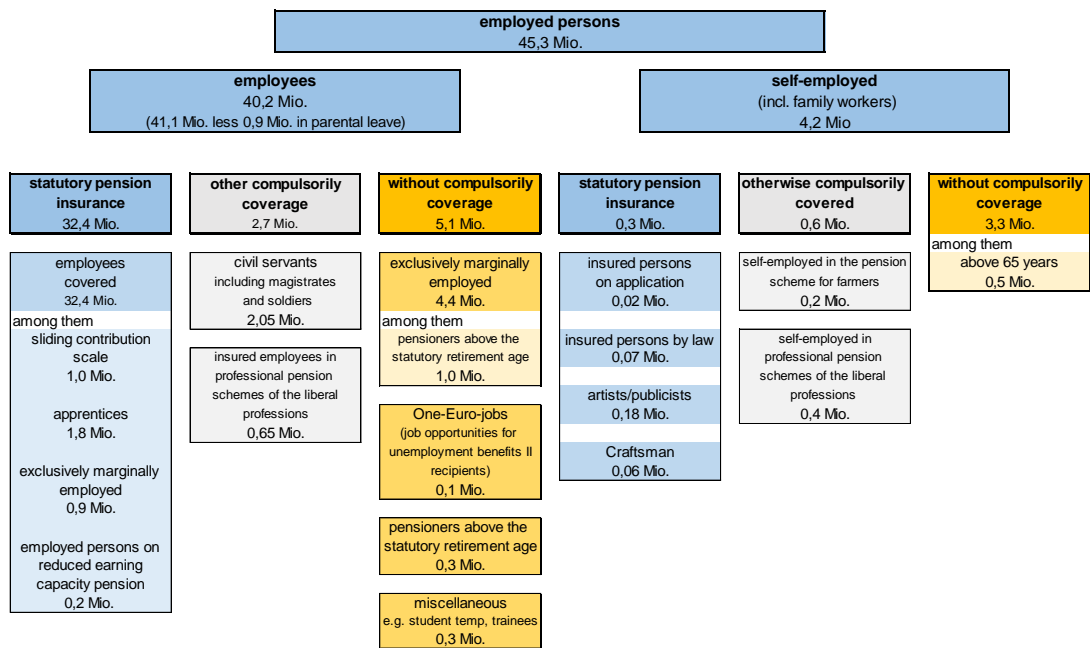
Germany will continue to implement the council recommendation on social protection.

Peer learning - for example in the format of peer reviews - has proven to be a very useful EU instrument.

Appendix

Old-age provision for employed persons

(data for the year 2019)



Estimate based on various data sources (2019, in millions of persons)