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Social protection of the self-employed in old age in the EU

Thais Guerrero Padrón [1]

[1] *Univeristy of Cádiz, Faculty of Labour Sciences, Spain*

Correspondence:
Thais Guerrero Padron,
Univeristy of Cádiz,
Faculty of Labour Sciences,
Spain

Email:
thais.guerrero@uca.es

ABSTRACT

In most European Union (EU) Member States, self-employed individuals receive, on average, lower retirement pensions than employees. Furthermore, the number of self-employed pensioners is lower, and there is a significant proportion of self-employed workers in the EU who are not entitled to a retirement pension. The situation is even more delicate for the new self-employed, as their mode of labour market participation, career trajectory, and the income level they reach can potentially compromise their future pension prospects. This paper analyses the position of self-employed workers within national social security systems, with a particular focus on their methods of contribution and the consequential impact on their ability to access adequate retirement pensions as a form of replacement income, thus avoiding the risk of poverty and ensuring a decent standard of living in old age. In this area, the Member States and the EU interact within the framework of their respective competences, with the manifest aim of improving the social protection of self-employed workers in their senior years.

KEYWORDS

self-employed persons, social protection, contribution, old age pension system, European Pillar of Social Rights

1 INTRODUCTION

Every national social security system has been shaped by political, economic, social, and cultural factors that collectively reflect the tradition, values, historical development, and society of the respective country. Since social security falls under the purview of each Member State, it is not unexpected to encounter differences among national systems, although they may share common elements.

The diversity of national social security systems within the EU, coupled with the heterogeneity of people working as self-employed, precludes the uniform treatment of social protection at the European level. Nevertheless, it is possible to discern features that are, to some degree, common to several Member States laws with regard to the social security of self-employed workers.

Overall, pensions are an essential component of social security, serving as a substitute income for wages or professional earnings, either temporarily or permanently. It is widely acknowledged that in most EU Member States, self-employed workers, when retiring at the same age and having completed an equivalent qualifying period as employees, receive lower old-age pensions. Moreover, the number of self-employed pensioners is lower, and there is a significant proportion of self-employed workers in the EU who are not entitled to a retirement pension. This holds true even in some public systems without differentiated protection in the area of contributory pensions for employees and self-employed workers (e.g., Finland). Largely, these differences can be attributed to variations in social security contribution regulations.

Frequently, comparisons are drawn between the contributions of the self-employed and those of employees and employers combined. In cases where the social contributions of the self-employed constitute a lower percentage than the joint contributions of salaried persons and employers, the debate arises as to whether it is appropriate to increase the social security contributions of the self-employed as a as a means of improving their protective coverage. This is the case in Belgium, where the contributions of self-employed workers are regressive and decrease as income increases.

This paper explores the motivations for these assertions, ultimately inquiring whether the retirement pension for the self-employed is adequate as a replacement income for the self-employed in EU countries. To address this question, we analyse the following points: Firstly, the composition of self-employed workers of today, considering not only the traditional practitioners but also emerging professionals (freelancers, crowd workers, economically dependent workers, among others). Secondly, the situation of the self-employed within national social security systems, with a special emphasis on their method of contributing to social security, since contributions emerge as the pivotal factor that ultimately determines the diminished protection they receive. Thirdly, the organisation of the pension system, whether structured around multiple pillars or with a public contributory system prevailing. We analyse the old-age pension arrangements for self-employed workers in both their public and supplementary dimensions. Finally, the paper presents the latest initiatives undertaken at the EU level to improve old-age social protection for self-employed individuals, as well as some initiatives carried out with this aim in several Member States.

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2 THE SELF-EMPLOYED IN THE EU TODAY

A distinctive feature of contemporary self-employment is the diversification of self-employed workers towards new employment types in line with certain behaviours and strategies within the current labour market, at least in the member countries of the EU.

The world of work has undergone substantial transformation in a very short time. The labour market has become globalised and highly competitive, fostering innovation and the adoption of new technologies across all stages of the production process (Gómez-Cano Alfaro, Bestratén Belloví and Gavilanes Pérez 2018). The economic and financial crisis of 2008 and the COVID-19 pandemic are two milestones of this evolving landscape that have caused job displacement and led to the widespread use of new technologies, with remarkable growth of teleworking. In this context, the heterogeneity of the self-employed is considerable, and the emergence of new professionals is not surprising, in some cases even blurring the line that traditionally separated employees from the self-employed.

Taking a global perspective, we contend that self-employed workers are deeply influenced by the economic development of the country in which they reside and the level of social protection it provides. Both factors can shape the figure of the self-employed in the fiscal and social security spheres. In fact, the proportion of self-employed individuals in the labour market is related to the economic cycle, decreasing in times of prosperity and increasing in times of crisis.

Presently, there are 32 million self-employed workers in the EU (constituting 14% of the total number of employees). They are present in all Member States, with the composition varying according to the type of self-employed worker, the sector of production, and the specific country. In an attempt to give an overview, we could classify them into three main groups (Vermeylen et al. 2017).

The first group encompasses half of the EU's self-employed population (16 million), including employers and traditional own-account workers. On one side, most employers employ multiple employees and enjoy financial security, even in case of sickness. On the other, traditional own-account workers usually do not employ any staff but have family helpers. Their activities are generally sustainable and not precarious. From the point of view of social protection, neither employers nor own-account workers pose significant problems since, in general, they enjoy economic solvency and independence.

The second group is comprised of people who became self-employed out of necessity. Most of them are former employees who were forced to become self-employed to get out of unemployment because they had no better job prospects. Typically, their businesses lack a physical site or an establishment. They are in a precarious situation, characterised by a low and/or irregular income, job insecurity, and unfavourable working conditions. More than half have no social security coverage in case of sickness. The so-called "economically dependent workers" predominate in this group. These individuals are primarily engaged in businesses or activities with low economic sustainability, and they depend financially on clients who provide them with their primary source of income.

Even more vulnerable are the "bogus self-employed," who work under the same conditions as wage-earners but are not classified as such.

Finally, the third group falls between the first two. It includes small-scale traders, restaurateurs, and farmers in the commerce and agriculture sectors. In general, they are economically independent, albeit financially insecure or irregular in the event of illness.

While we do not entirely exclude the genuine self-employed from this analysis, the worrying situation of those who have more recently become self-employed (found primarily in the second group mentioned) should be highlighted for two reasons. Firstly, the risk of poverty and social exclusion looms larger for these workers due to their economic instability and unsustainability, limited means and resources available to them to carry out their activity, their scarce or questionable training to perform multiple activities (in the case of "multi-services" workers), their income, control over their working conditions, and public records. Secondly, their social protection is considerably lower compared to that of traditional employees, a significant discrepancy considering their contributions. This leads us to analyse the situation of self-employed workers in terms of social security, according to the country and its economic development level or social protection index.

3 THE SELF-EMPLOYED IN SOCIAL SECURITY

The position of a self-employed worker in social security is influenced by general and objective variables, as well as elements of a subjective nature. By general and objective variables, we mean the degree of economic development of the country, the state of its labour market, and the level of social protection achieved. Elements of a subjective nature pertain to the professional training of the self-employed, their mode of participation in the labour market, and, notably, the level of professional income they earn and the way in which this income is considered in terms of social security and taxation.

Generally speaking, most national social security systems of Member States protect the self-employed, although the extent and nature of this protection vary. Apart from the peculiarities of each national system, it is noteworthy that social security was originally based on the profile of a full-time male employee with an indefinite contract, designated as the "head of household" (as exemplified in the case law of the Court of Justice on "*Directive 79/7/EEC*" on the principle of equal treatment for men and women in social security).

As modes of production, the labour market, and society itself evolved, social security protection gradually extended to other types of workers and forms of employment. The widespread presence of women in the labour market, the growing internal and external flexibility in the production system, the emergence of new non-standard contracts, the various forms of self-employment, and the evolution of family structures beyond the traditional family have gradually found their way into social security. This has been addressed by successive legal reforms of the personal and material scope of social security. These reforms have led social security to face new realities, which are essentially a manifestation of social evolution itself. Modernising social protection systems by improving the adequacy and coverage of social protection is key to preventing social exclusion.

This analysis focuses predominantly on the study of "contributory" social security systems, which, by offering protection linked to the professional status of the person, may establish distinct rules or regimes for self-employed workers and employees. Such distinctions are inconceivable within models of universal social protection, where certain benefits are extended to citizens based on the criterion of residence and in accordance with the economic capabilities of the State, subject to means testing or not. In these models, an individual's employment or professional situation is generally irrelevant.

3.1 ACCESS TO SOCIAL SECURITY AND THE EXTENT OF COVERAGE

The situation of self-employed workers in social security is often assessed or measured in comparison to or in contrast with the protection provided to employees. In general, and in an attempt to homogenise both groups, the rules designed for employees apply equally to the self-employed, obviating the peculiarities of self-employment in order to implement a specific social protection measure. This is detrimental to some categories of self-employed workers and can, at times, cause alarming situations due to the evident risk of poverty and social exclusion that may result.

In the worst-case scenario, the self-employed with irregular professional trajectories, and/or with low or fluctuating incomes, on which they contribute to social security, face the risk of exclusion from certain national social security systems. This happens when they do not reach a certain income threshold, a situation sometimes mitigated by allowing them to opt for voluntary inclusion in the social security system (e.g., in Romania).

The self-employed generally enjoy less social protection than employees, both in terms of the range of benefits available to them and the breadth of coverage. The benefits that are generally excluded from social security protection are unemployment, workplace accidents, and occupational injuries and diseases. Some countries, such as Germany, have gradually introduced these benefits over time, either on a mandatory or voluntary basis (Bäcker 2017).

Some national social security systems recognise the same benefits for employed and self-employed workers. However, this recognition is purely nominal because there are significant differences in eligibility requirements for the two groups, usually to the detriment of the self-employed. A typical case is sickness benefits (Sirovátka, Jahoda and Malý 2017; European Commission, Directorate-General for Employment, Social Affairs and Inclusion 2023).

Finally, in some Member States social security protection offered to the self-employed and employees is formally identical, but the former receive lower benefits (Kallomaa-Pua and Kangas 2017).

3.2 THE ISSUE OF CONTRIBUTION

Income levels, social security costs, and the taxes imposed on the self-employed all influence the way they contribute to social security, which in turn affects the amount of social benefits they are entitled to receive. The nature of self-employment means that their income is not fixed but uncertain and variable over time. Social Security must take this reality into account when formulating contribution rules for the self-employed, ensuring that they are not excessively burdensome in view of the way self-employed individuals work and that they do not jeopardise the survival of their business activities.

There is no common or single reference contribution model for all Member States. National social security systems often offer self-employed workers the possibility of choosing the basis and/or rate of contribution from among several options or of applying for specific coverage. This discretion generally leads to the choice of the lowest level of protection, even to the detriment of a secure retirement pension (European Commission, Directorate-General for Economic and Financial Affairs 2018a).

In this analysis, we exclude self-employed people with a solid economic footing, assuming that they choose a contribution basis that will guarantee them adequate coverage within the statutory limits provided for self-employed workers. Therefore, the object of our analysis is the self-employed who, due to their form of work, receive low and/or irregular income. Likewise, we consider the self-employed who register fluctuations in their income, who may face penalties if their income falls below the estimated amount when regular contribution payments are required. They will probably choose the minimum contribution base or the lowest level allowed, so if they meet the required qualifying period, they will consequently receive low benefits.

In these cases, it is not uncommon for legislation to provide for exemption from the payment of contributions for self-employed workers with a high degree of income insecurity (as observed in Belgium). Similar measures may involve the exemption of self-employed persons from the obligation to contribute to the pension scheme when their income level does not reach a certain threshold or allowing them to make voluntary contributions. In summary, these measures are likely to result in a serious lack of social protection.

Romania might be an extreme example. The self-employed constitute 17% of the working population, yet only 10% receive a contributory retirement pension, which means that the majority of this group may rely on social assistance protection. Pension insurance is compulsory for those who exceed the minimum insurable threshold, equivalent to 35% of the average gross monthly salary at the national level. The applicable rate is 10.5%, unless they opt for the full rate of 15.8%. Self-employed workers with incomes below the minimum insurable threshold who have opted for protection must pay contributions based on this minimum amount. It places them at a disadvantage compared with part-time employees, who only pay contributions on their actual income. Even when the minimum threshold is reached, very few self-employed workers pay social security contributions due to the high contribution rates and the complexities involved in calculating the income assessment basis. In fact, the pension insurance contribution to be paid by a self-employed individual (€70 per month) constitutes a significant financial burden within the context of the country's economy (Spasova et al. 2017).

In Finland, self-employed people who start working must take out compulsory pension insurance with tax-deductible premiums to gain coverage under the social security system (Kallomaa-Pua and Kangas 2017). This insurance cannot be replaced by voluntary insurance and is contingent on the estimated annual income they will earn from their activity exceeding a certain threshold. However, if their income is below that reference, they can take out private pension insurance. If they declare lower incomes, albeit above the threshold, it will obviously have an impact on the amount of their benefits.

In a very different position is Slovakia, where there is some debate as to whether the contributions paid by the self-employed to pension insurance are adequate or, on the contrary, very high compared to those paid by employees. Self-employed workers are obligated to pay health, sickness, and pension insurance contributions if their declared gross income exceeds the statutory tax base (determined on the basis of the average annual salary of the previous year). Most of the Slovak self-employed pay contributions at the minimum rate, impacting the size of their pensions and raising questions about the provision of sufficient coverage. An amendment to the "*Social Insurance Act*" in January 2013 increased the minimum contribution base in an attempt to mitigate this situation. However, it is too early to assess the effects of the measure on the pension entitlements of the Slovak self-employed, though there is evidence of a short-term positive impact on other benefits such as health and sickness insurance.

The amount used as the basis for contribution calculation may be directly or indirectly related to the income derived from the self-employed worker's professional activities, whether or not it is taxed. It may also consist of a fixed amount established by law or the choice of a contribution base within a minimum and maximum limit. In any case, the use of the correct basis for contribution calculation, adjusted as much as possible to the net income earned by the self-employed person, will have a direct influence on the degree of protection. If the basis is very low, the level of benefits available will also be low. Conversely, if the base is very high, the resulting contribution will be very expensive for the self-employed worker, although it will improve the level of benefits.

In this regard, the Belgian system is exemplary, taking as a reference the self-employed person's income tax declaration and calculating the contributions based on their annual net income. The calculation is divided into two stages: in the first (provisional), the Social Insurance Fund determines the quota from the self-employed person's tax return from three years ago and suggests the corresponding quarterly payment. In the second stage (definitive), the Fund proposes that the self-employed worker regularise the contributions paid after having been duly informed by the tax authority of their definitive settlement (Guerrero Padrón 2016).

The deduction of professional expenses of self-employed workers may influence the calculation of the contribution and the consequent benefit amount, depending on the type of expenses considered and the way in which the deduction is made. In the Czech Republic, the pensions of self-employed persons are 38% lower than those of employees due to their lower premiums for pension insurance. Most self-employed workers choose to pay the lowest possible statutory premium, which obviously has an impact on the level of protection they will achieve, notwithstanding the guarantee of a minimum pension for those who have consistently contributed to the system at the minimum permitted level throughout their professional career (Sirovátka, Jahoda and Malý 2017).

In most EU Member States, the contribution rate for self-employed workers is close to or the same as that applied jointly to employees and employers. In Germany, for example, self-employed workers covered by public pension insurance bear the full contribution rate. As a peculiarity, during the first three years of self-employment, the contribution is reduced by 50%. Likewise, the self-employed who prove fluctuating income can choose to pay a lower or higher quota than the standard one (Bäcker 2017).

In contrast, some countries set a lower contribution rate for self-employed workers. This is the case in Belgium, where there is no contribution ceiling for employees, while self-employed professionals have their income capped at a specific threshold, beyond which the contribution rate is zero. Below this threshold, the applicable rate decreases (De Wispelaere and Pacolet 2017).

Romania presents a unique situation for economically dependent self-employed workers. When they exceed a certain income level, they are mandatorily enrolled in the pension insurance system, with the contribution obligation shared between them and their sole client, who takes on the employer's share of the contributions. Similarly, in Portugal, contracting entities are required to pay contributions for economically dependent self-employed workers (Schneider, Petrova and Becker 2021).

Spain has also adopted measures regarding contributions for the self-employed, including the establishment of a fixed contribution of €50 for the first year for new self-employed workers to facilitate their integration into the labour market ("*Law 6/2017*"). However, the most innovative reform is the new contribution system for the self-employed, which is based on net annual income earned from all their economic, business, or professional activities ("*Royal Decree-Law 13/2022,*" effective as of January 1, 2023). Other improvements apply to the calculation of the regulatory base in old-age pensions, such as the integration of contribution gaps into the calculation of the regulatory base to facilitate access to retirement pensions.

In summary, it is not surprising that there may be a certain lack of motivation to comply with the obligation to pay social security contributions, including conduct tending to under-contribute or avoid payment or equally serious practices of tax evasion. These behaviours in sum only underscore the low income levels of those self-employed workers. Perhaps compensating for the higher social security contributions with lower income tax could help combat or at least reduce the above-mentioned disincentive effect.

4 OLD-AGE PENSION FOR THE SELF-EMPLOYED

Old-age pension is an integral component of the social protection afforded to the self-employed across all EU Member States, where a wide array of approaches exists to structure this protection against the eventuality of retirement. The influence of the two classical models – inspired by Bismarck and Beveridge – on Member States' pension systems is generally evident, with none of the systems presenting as exclusively universal or contributory. Rather, they all combine elements of both models to a greater or lesser extent. Depending on the degree of influence, systems can be described as typically universal (e.g., Nordic countries), others as heavily contributory (e.g., Germany), and lastly, there is a wide range of hybrid social security systems (e.g., Spain).

It is possible to identify certain common elements or features within the diversity of pension systems in the EU in order to provide a general overview of retirement protection for the self-employed.

Regardless of the varying levels of structural development that each system may have undergone, in general, there are two main levels of protection. Firstly, a basic public one, and secondly, a complementary and voluntary one, of professional or private origin, whose roots and improvement are not the same across all Member States, nor are they the same for self-employed workers (Schneider, Petrova and Becker 2021).

4.1 THE PUBLIC OLD-AGE PENSION SYSTEM

The public level or the first pillar of protection offered by all national pension systems is mainly organised in two ways: one based on criteria of a universal nature and the other based on occupational requirements.

4.1.1 UNIVERSAL (NON-CONTRIBUTORY) PUBLIC PENSION

Non-contributory public retirement pensions are typically available to all citizens of the country and are normally financed by the State through taxation. Their purpose is essentially to guarantee a minimum income to combat or avoid the risk of poverty, and they are based on basic pensions, either flat rate or means-tested.

The Netherlands recognises a flat-rate state pension for those who have worked (including the self-employed) or have resided in the country, conditional on reaching retirement age (65). It is financed through a specific income tax contribution (pay-as-you-go system). The right to the basic state pension does not require a minimum qualifying period. The full pension is obtained after 50 years of residence/work, with a 2% reduction for each missing year. The pension amount is calculated based on the minimum wage, which results in low pensions that require supplementation from the second and third pillars. When a full pension is not reached and there is no other income, there is supplementary income support to ensure the level of income set by the government (Camós Victoria, García de Cortázar and Suárez Corujo 2017).

In Denmark, the public component of the pension system is essential for protecting the self-employed. It encompasses two pensions. Firstly, there is a basic and universal pension, financed through general taxation, with the amount depending on the number of years of residency in the country. It consists of both a fixed and means-tested portion. Secondly, there is a supplementary labour market pension financed by employers and employees. This pension is voluntary for the self-employed, and its amount depends on the contributions paid, which are, in turn, based on the hours worked.

In a similar but distinct position is Sweden, where the non-contributory pension plays a secondary role by acting as a supplement to another main contributory pension. Indeed, the public pension system focuses on the latter, which consists of a basic part financed through earnings-related contributions under the pay-as-you-go financial system and a supplementary part based on an individual capitalisation system. The complementary non-contributory pension is financed through taxes and acts as a minimum guarantee when resources are lacking.

In the aforementioned systems, the public level, organised around basic pensions, is complemented by the extensive development of supplementary pension schemes, at least for employees. Without this necessary improvement, the overall pension of the retired person would be incomplete and lower. This is particularly the case for self-employed workers, as discussed in more detail below.

4.1.2 CONTRIBUTORY PUBLIC PENSION

Contributory protection linked to the career and contributions of both self-employed and employees is common to many EU Member States. It is generally based on a pay-as-you-go financial system and acts as a replacement income, allowing workers to maintain a certain level of income when they retire. On average, the contributory pension for the self-employed in most EU countries is lower than that received by employees. This discrepancy can be attributed to differences in contribution forms and amounts, as discussed in the following sections.

Some pension systems offer protection predominantly via a single public contributory pension, supplemented by limited non-contributory protection, which comes into play when the requirements of the contributory scheme are not met. Occupational pension schemes and individual savings plans play a very secondary or residual role in these systems. This is the case in Italy and Spain, where basic levels of public contributory and non-contributory protection prevail and where authorities have tried unsuccessfully to improve them through private alternatives or special tax treatment.

Otherwise, in France, the peculiarity is that the compulsory public scheme integrates two pension benefits: a basic one and a larger supplementary one, provided for in the compulsory supplementary pension schemes for various categories of self-employed persons (traders, craftsmen, farmers, and liberal professionals). Both are protection mechanisms financed through income-related contributions and operate on a pay-as-you-go basis (Camós Victoria, García de Cortázar and Suárez Corujo 2017).

Contributory protection for the self-employed is compulsory in most Member States, although this does not prevent certain particularities and differences in the level of protection afforded to the self-employed and employees, as well as differences in treatment among self-employed workers themselves depending on their specific category and economic sector.

Firstly, some Member States exclude from the public pension system self-employed workers whose income is below a given threshold, although voluntary protection is occasionally allowed to avoid gaps in contributions (e.g., Bulgaria, Finland). Otherwise, in Romania, most self-employed workers are not protected by the old-age pension because their earnings fall below the minimum income threshold required for public insurance. In Belgium, self-employed persons in secondary occupations are excluded from the old-age pension scheme for the self-employed.

Secondly, the protection of self-employed workers through pension insurance is not always compulsory. In Germany, there is no universal pension system comparable to pension systems of Nordic countries. Instead, the compulsory public system in Germany relies on contributory pensions financed through contributions and operates on a pay-as-

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you-go basis, protecting the vast majority of employees with some exceptions (marginal workers). Complementary private protection, such as individual savings plans, exists, but there are no occupational pension schemes covering self-employed workers.

Thirdly, some countries do not extend certain types of retirement benefits, available to employees, to the self-employed. This is currently the case in Spain with regards to partial retirement (since there is no regulatory development) and early retirement.

Fourthly, the provision of very limited basic state pensions restricts protection for those individuals, such as the self-employed, who cannot access supplementary occupational pensions. The UK, where the self-employed are very numerous in the labour market, offers only a modest basic state pension to this group, denying them access to any supplementary state pension, unlike their employed counterparts. Similarly, in Ireland, the public pension is characterised by very low amounts that are only sufficient to prevent extreme poverty. A distinction is made between a compulsory contributory state pension with stricter eligibility requirements for the self-employed, such as the qualifying period or contribution base, which follows a pay-as-you-go financial system (although the State intervenes in the financing if the amount collected is insufficient) and a non-contributory assistance pension, financed by the State and based on non-contributory requirements (age, income below a certain threshold).

Fifth, a major issue is the transferability of social protection rights when moving from one employment status to another, for example, from employment to self-employment or unemployment, or when combining employment and self-employment or starting or closing a business. Often, contributions made under one employment status are not recognised when transitioning to a different one, resulting in the loss of social protection rights.

Finally, there may be differences among self-employed workers in the same country with regards to access to a retirement pension. In Italy, 18 special funds (*Casse Professionali*) manage pensions for liberal professions, while the National Institute of Social Security (*INPS*) oversees pensions for other self-employed (Jessoula, Pavolini and Strati 2017). In Austria, bar associations are the only chambers of liberal professions that have made use of the possibility of opting out of the mandatory pension plan for self-employed workers; therefore, insurance for attorneys is organised in a separate pension scheme, and there is also a special statutory old-age pension scheme for notaries (Schneider, Petrova and Becker 2021).

4.2 SUPPLEMENTARY PROTECTION: OCCUPATIONAL PENSIONS AND PRIVATE FUNDS

The public retirement pension is not always adequate or sufficient to maintain the level of income the pensioner had while working. This has justified the use of supplementary pension techniques at the company level, typically promoted through collective bargaining, as well as at an individual level, based on personal savings and with more favourable tax treatment to encourage their use by public authorities.

Complementary protection is usually voluntary, private, and capital-funded. It consists of what in some pension systems are called the second and third pillars, i.e., occupational and private pension schemes, respectively. As might be expected, the importance of occupational and individual supplementary pension schemes varies among Member States. This type of provision is particularly relevant in Member States whose pension systems are designed as an integrated set of insurance schemes, in which the basic public pension must necessarily be completed by supplementary occupational and/or individual pensions.

Occupational pension schemes can be organised at the firm, sector, or occupational level, and even by groups of companies. The business origin explains the widespread impact on employees who are potentially covered by occupational pension schemes originating in collective bargaining. However, this is not the case for self-employed workers, who are often excluded from second-pillar protection, as seen in Denmark and Germany. In the United Kingdom, for example, considering its low basic state pension, the development of private supplementary protection would be fully justified. However, pension schemes managed through collective bargaining or agreed upon with employers do not extend to the self-employed, leaving them to rely on supplementary protection through individual schemes based on their own savings capacity.

Nevertheless, there are some exceptions to this blanket exclusion. For example, in Sweden, the self-employed have the possibility to opt for occupational pension plans for industry and commerce, as well as those for manual workers in the private sector (both plans are compulsory for employees in their corresponding sectors).

In the Netherlands, the second pillar of pension protection plays a major role in the overall pension system and is almost compulsory for employees. Although the second pillar does not cover most of the self-employed, they are allowed to promote their own pension funds, as liberal professionals do (Camós Victoria, García de Cortázar and Suárez Corujo 2017). Despite the absence of legal restrictions, the high cost of this type of coverage is in practice a major barrier for the Dutch self-employed, and therefore has very limited influence on those with lower incomes.

Spain has recently incorporated employment pension plans for the self-employed into its legislation in a determined attempt to strengthen the pension rights of the self-employed, complementing the protection of the public system. The so-called "simplified occupational pension plans" can be promoted by associations of self-employed workers, in which the participants are exclusively self-employed workers ("*Law 12/2022*").

Notwithstanding these exceptions, the widespread exclusion of self-employed workers from occupational pension schemes can only be compensated for through independent savings or the purchase of private insurance, unless specific protection instruments comparable to those of the second pillar are made available.

Indeed, individual pension plans based on personal savings represent an alternative for improving the future public pension of the self-employed. For instance, in Belgium, where the third pension pillar is made up of personal retirement savings and life insurance schemes, almost half of the self-employed are covered by a supplementary pension (De Wispelaere and Pacolet 2017).

The utilisation of this mechanism varies highly among Member States, with the likelihood of taking out this type of insurance depending largely on a person's financial capacity. Although private pension schemes can theoretically help increase or maintain income levels in retirement, they are a difficult or unlikely alternative for self-employed workers who choose to contribute on the minimum permitted basis and do not take out voluntary coverage. Likewise, it represents a significant financial burden for many self-employed people, possibly due to income limitations and the costs associated with their professional activities.

In Germany and the Czech Republic, third-pillar measures have seen limited success as far as the average self-employed person who lacks the conditions necessary to accumulate capital is concerned. In these cases, the public contributory pension becomes an inadequate or insufficient protection, unable to replace the professional income lost in retirement. The situation is different in southern European countries, such as Italy and Spain, where the application of occupational or individual pension schemes is lower or virtually nonexistent.

However, some countries are taking steps to promote private savings among the self-employed through tax deductions. In Sweden, for example, the self-employed are allowed to deduct a portion of their private pension savings. In Norway, tax allowances are offered to the self-employed in connection with supplementary retirement savings, albeit on less favourable terms than those for employees (Nelson et al. 2017).

At present, complementary protection measures have not seen the desired level of development, implementation, and success. The protection of the self-employed continues to focus almost exclusively on the public contributory pension.

4.3 THE OLD-AGE PENSION AS A REPLACEMENT INCOME FOR THE SELF-EMPLOYED

The adequacy of a pension can be measured based on at least three parameters: its amount as a replacement income, its duration, and its ability to prevent and mitigate the risk of poverty and exclusion (European Commission, Directorate-General for Economic and Financial Affairs 2018a). Given the reflections in the preceding paragraphs, it is questionable whether the old-age pension can reasonably replace the loss of labour income of self-employed workers (especially the most vulnerable) when they reach retirement age and for the duration of this situation, enabling them to avoid the risk of poverty and maintain a decent standard of living.

Compared to ordinary employees with permanent full-time contracts, the self-employed receive lower than average retirement pensions. Additionally, there is a lower proportion of self-employed pensioners relative to the total number of retirees. However, the most worrying aspect of the whole situation is the high proportion of self-employed people at the EU level who do not generate pension rights (Spasova et al. 2017).

The way the pension system is organised is also relevant. Systems with multiple pillars, on the one hand, conceive pension as the sum of a basic public pension (universal or contributory, depending on the case) and a supplementary pension of occupational origin, as well as, where appropriate, a third one derived from the individual pension plan. On the other hand, there are systems with a predominance of public contributory pensions and little or no development of supplementary pension mechanisms. These systems clearly reinforce the public pension, but this does not prevent its total amount from falling to minimum levels as a result of the worker's professional career and contribution effort.

Both types of systems apply to employees, but not absolutely to self-employed workers because they are generally excluded from the additional protection offered by occupational pension schemes established through collective bargaining. Therefore, if we rule out the supplementary occupational pension and consider that, in many cases, it's challenging for self-employed workers to improve their retirement income through individual pension plans due to their low savings capacity, in the end, the state pension often forms the core of protection for the self-employed in old age.

In addition to the way in which the pension system is organised, the conditions of access to the old-age pension and the calculation of this benefit influence the situation of self-employed workers. In general, these regulations have been formulated with conventional employees in mind and have gradually been extended to cover the self-employed, without taking into account their specific characteristics and needs, which are substantially different from those of regular employees.

5 NATIONAL POLICIES IN THE FRAMEWORK OF THE EUROPEAN PILLAR OF SOCIAL RIGHTS

To delve deeper into the issue, it is imperative to take into account the policies and activities adopted by Member States to improve and strengthen their pension systems and, in particular, the situation of the self-employed in these systems. For decades, Member States have grappled with questions surrounding the sustainability of pension systems and the challenges posed by ageing populations. They have also sought to improve the social protection of the self-employed in the realm of pensions.

There are numerous examples showing a widespread concern in European comparative law regarding the social security status of the self-employed, especially in those aspects that hinder access to and enjoyment of an adequate retirement pension. Although actions vary depending on the specific national social security system in place and its specific problems concerning old-age pensions, the influence of EU policy can be discerned. One such point of reference is the European Pillar of Social Rights.

The European Pillar of Social Rights, established in 2017, aims to enhance living and working conditions within the EU through 20 key principles and rights. In terms of social protection, Principle 12 states that "*self-employed workers are entitled to adequate social protection*." In addition, Principle 15 stipulates that "*retired workers and the self-employed are entitled to a pension commensurate with their contributions and guaranteeing an adequate income*." This social pillar serves as a benchmark for monitoring the performance of EU Member States' employment and social policies and incorporates a new approach to overarching social priorities across all social policies.

In Belgium, for example, the 2015 pension reform raised the statutory retirement age across the three main public old-age pension schemes (employees, self-employed, and civil servants) from 65 for men and women to 66 in 2025 and 67 in 2030. A career of 45 years is still required to obtain a full

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pension (European Commission, Directorate-General for Economic and Financial Affairs 2020). Since 2016, Belgium has equalised the amount of the minimum pension for employees and self-employed persons. This important measure is part of a broader policy aimed at harmonising the protection levels for these two groups, each covered by a different pension scheme. The goal is to improve the purchasing power of the self-employed. At present, the challenge lies in addressing contributions. To correct the imbalance between the two, it will probably be necessary to increase the contributions of the self-employed and improve their benefit levels, abandoning the regressive system mentioned above. Another topic of active political debate is how to encourage the use of the second and third pillars by the self-employed.

In Italy, the primary challenges revolve around the first pillar and its management by *INPS* and the *Casse Professionali*. The undertaken reforms aim at progressive harmonisation. Although universal coverage is guaranteed, differences persist in access and calculation of the retirement pension to the detriment of the self-employed (Jessoula, Pavolini and Strati 2017) and also regarding early retirement (European Commission, Directorate-General for Economic and Financial Affairs 2020).

In Denmark, the government unsuccessfully proposed in 2015 establishing a compulsory savings pension for people without sufficient resources, including the self-employed, by applying a progressive percentage to their working income. The aim was to address the problem of inadequate retirement pensions for people not covered by the second pillar of protection and who are reluctant to participate in individual savings plans, which leaves them only with a reduced public pension (Kvist 2017).

Pension adequacy is currently a major issue in Slovakia, where pension regulations and raising the retirement age are under discussion. While the rules are the same for both employees and the self-employed, differences arise in relation to the expected levels of old-age pensions and, consequently, pension adequacy (European Commission, Directorate-General for Economic and Financial Affairs 2018b). It is noteworthy that self-employed workers in this country contribute at a rate of 18% of the assessment base, while employees contribute at a rate of 4%.

In Greece, contribution regulations have seen improvement. Since 2017, pension funds have been consolidated into one entity, with uniform rules for contributions and access to benefits for all employees and self-employed workers. Currently, the calculation of the contribution base for the self-employed is based on the net income declared for tax purposes in the previous year.

Germany faces the challenge of making pension insurance compulsory for the entire working population. The debate focuses on the potential compulsory incorporation of self-employed workers who lack other public protection, revising their contribution rules, the immediate economic effects of potential new contributions to the pension insurance fund, and inevitably, the long-term cost of protective action (Bäcker 2017).

Lastly, in Lithuania and Romania, measures have been implemented to improve legal and effective access to retirement for previously excluded categories, and to mandate protection for the self-employed (European Commission, Directorate-General for Economic and Financial Affairs 2018a).

6 RECOMMENDATIONS ON ACCESS TO SOCIAL PROTECTION

As can be seen from the discussion above, improving the social protection of the self-employed remains an ongoing task involving collaboration between Member States and EU institutions. In line with Principles 12 and 15 of the European Pillar of Social Rights and guided by the concern to address the issue of the adequacy of pensions, the Council adopted the "*Recommendation on access to social protection*" (2019), which encourages Member States to take the necessary measures to improve social protection for the self-employed.

The Recommendation does not limit the autonomy of the Member States in the establishment and management of their national social protection systems, nor does it affect the maintenance of the level of social protection achieved by each system. This document applies to employees and the self-employed, including people transitioning from one status to the other or having dual status. It recognises that different rules may apply to workers and self-employed persons. Within this framework, Member States are recommended to ensure the principles of formal and effective coverage, adequacy, and transparency, which will serve as guiding markers for Member States as they navigate the implementation of social protection for self-employed workers in their respective social security systems.

Therefore, the Council Recommendation summarises the actions that Member States may undertake in their social security systems to improve the social protection of the self-employed, while also charting a path for the future. In this regard, the exceptional measures adopted during the COVID-19 pandemic to improve the protection of vulnerable groups (unemployed, non-standard workers, and the self-employed) serve as inspirational models, as acknowledged by the European Commission in the European Pillar of Social Rights Action Plan (2021). In any case, the idiosyncrasies of each national system will determine the actions that must be adopted and the opportune moment for their implementation.

A 2023 European Commission report on the implementation of the aforementioned 2019 Council *"Recommendation on access to social protection for workers and the self-employed"* confirmed that many self-employed workers still contend with significant gaps in social protection coverage. This report also sheds light on the ongoing debates within Member States. Some national reforms focus on adapting social protection systems to the changing nature of work and on better protecting self-employed workers. However, there are still countries in which self-employed workers do not have sufficient access to the branches of social protection more closely linked to the labour market. The improvements in this field are not uniform across Member States, nor are they always addressed within different branches of social protection. Rather, they are influenced by the distinctive weaknesses and priorities of each national system. Nevertheless, challenges will persist as long as the self-employed continue to face a higher risk of monetary poverty than standard workers. Notably, at least half of the Member States have taken or announced measures to guarantee adequate retirement pensions for the self-employed. However, the impact of these measures can only be evaluated over the medium to long term.

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7 CONCLUSION

Self-employed workers are deeply influenced by the degree of economic development and the level of social protection achieved by their country of residence. Both factors can shape the status of the self-employed worker in the realms of taxation and social security. While this analysis does not exclude traditional self-employed categories such as traders, farmers, fishermen, liberal professionals, and craftsmen, it does underscore the particular concern surrounding a newer class of self-employed individuals we have termed "vulnerable". The risks of poverty and social exclusion loom larger for them, and they experience lower levels of social protection compared to employees, especially with regard to retirement protection.

With some exceptions, the concept of supplementary protection through occupational pension schemes for the self-employed is generally rejected. Their ability to take out private savings insurance is also uncertain. Attention therefore necessarily turns to public contributory systems, where the professional activities of the self-employed and their contributory history directly influence the extent of their pension benefits. An incomplete and precarious career trajectory is likely to influence future pension accessibility and the level of coverage. In this context, achieving a retirement pension that meets the necessary standards to be considered an adequate replacement income for lost occupational earnings and preventing and alleviating the risk of poverty becomes challenging.

Numerous reforms within national social security systems have sought to extend protection to all self-employed workers by integrating them into the social security system or even creating specific protection schemes. Measures have also been taken to change the way the contribution base is calculated, to harmonise the applicable rates or to review access conditions for benefits—in short, to improve coverage levels. The issue is delicate, and without proper preliminary studies, future pensioners could find themselves with access to meagre minimum benefits, unless they are duly compensated through universal social protection. This could lead to a generation of pensioners in dire need.

In this generalised debate, public authorities may need to determine which types of self-employed workers should be encouraged and supported due to their contributions to stability and growth. Similarly, there is a need to identify those who should be discouraged or transitioned into wage labour, but with guarantees of stability. It would be prudent to also consider actions in the field of lifelong learning to foster stability and economic progress, as well as instruments of trade union representation to promote their protection.

In any case, the reform process has not yet been completed, and it will continue to influence the political agenda of both Member States and the EU in the years to come.

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Socijalna sigurnost samozaposlenih lica u EU za slučaj starosti

SAŽETAK

U većini država članica Evropske unije (EU) samozaposlena lica ostvaruju, u proseku, niže starosne penzije u odnosu na ona lica koja su uživala radnopravni status zaposlenih tokom radnog veka. Osim toga, ukupan broj korisnika penzije koji su radili u svojstvu samozaposlenih lica je niži, dok postoji znatan broj samozaposlenih radnika u EU koji nemaju pravo na starosnu penziju. Naime, situacija je još delikatnija za nova samozaposlena lica, budući da način njihovog učešća na tržištu rada, kretanje u karijeri, i visina primanja koja ostvaruju mogu ugroziti izglede za ostvarivanje penzije u budućnosti. U radu se analizira položaj samozaposlenih radnika u okvirima nacionalnih sistema socijalne sigurnosti, sa fokusom na metode uplaćivanja doprinosa i posledični uticaj ovih okolnosti na mogućnost njihovog pristupa odgovarajućim starosnim penzijama kao obliku zamenskog primanja, uz izbegavanje rizika od siromaštva i obezbeđivanje dostojanstvenog životnog standarda u starosti. Posebna pažnja posvećena je javnopolitičkim i normativnim inicijativama preduzetim na nivou Evropske unije, kao i u odabranim državama članicama koje imaju za cilj unapređenje statusa samozaposlenih lica kao korisnika prava na starosnu penziju. Države članice i EU deluju u ovoj oblasti u okviru svojih nadležnosti, a u cilju unapređenja socijalnopravne zaštite samozaposlenih lica u starijim godinama života.

KLJUČNE REČI

samozaposlena lica, socijalna sigurnost, doprinosi, sistem starosnih penzija, Evropski stub socijalnih prava

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