



# Self-employed persons under the pressure of the pandemic: What does social security for the next generation look like?

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The German Federal Pension Insurance (DRV Bund), the German Social Accident Insurance (DGUV), the National Association of Statutory Health Insurance Funds (GKV-Spitzenverband) and the national associations for statutory health and long-term care insurance funds have joined forces to form the "German Social Insurance – Working Group Europe" in the interests of their common European policy interests.

The German Social Security represents the interests of its members vis-à-vis the bodies of the European Union and other European institutions and advises the relevant players in the context of current legislative proposals and initiatives.

As part of Germany's statutory insurance system, health and long-term care insurance, pension insurance and accident insurance offer effective protection against the consequences of major life risks.

## I. Background

The COVID-19 pandemic is putting our social security systems to the test. For the sustainable financing of social security systems, it is high time to take decisions to close, among others, existing gaps in formal and/or actual social security that became apparent during the crisis, for example in the social security of self-employed persons. This also affects individuals working on online platforms. Where possible, adequate social security must be created, strengthened and enforced. This applies to the platform workers - on both the benefits and the contributions side. It is precisely here that an infrastructure for recording incomes might need to be created, given the common cross-border components (service providers, service recipients and platform operators are often based in different countries).

The gaps in social security for self-employed persons have become even more apparent during the crisis. First of all, they are the most affected by a lack of or very



inadequate protection in the event of the loss of earned income or a dramatic deterioration in the level of orders. In particular, this reflects the difficulties in designing and financing unemployment schemes or equivalent security for self-employed persons. However, income security in the event of illness - comparable to the continued payment of wages or sick pay for employees - is also problematic for self-employed persons in most cases.

In the long term, the gaps in pension provision will continue. Even for certain family benefits, gaps could become apparent, especially where they have the function of a substitute for the loss of earned income.

The question now is how to learn from the crisis and what options are available to fill the gaps in the future. This requires a better understanding of the background to and trends in the increased incidence of self-employment or the changes within this form of work and the causes of the formal or real gaps in social protection.

## II. Digitisation of the world of work and consequences for the choice of employment types

The digitisation of society is having a profound impact on the world of work. For example, it creates potential to "work from home" something that has only become apparent in its full dimension during the coronavirus crisis. This, together with the constant phenomenon of virtual accessibility, poses new challenges not only to the concept of "working time", but also to prevention and occupational safety.

In addition, the mass availability of storage, transmission and processing capacities has finally paved the way for a form of work that is commonly described as "platform work". This refers to work that is organised, distributed and assigned via electronic platforms and that is performed remotely or completely virtually/online. Traditional, personal management structures of a mostly locally bound "operation" are replaced by a control by algorithms. They organise the interaction between capital (often concentrated at the platform operator), labour and the end user, who can be both: An end user, or in turn, an entrepreneur himself.

On the one hand, this new world of work offers the chance for economic innovation while (better) satisfying old and new needs. On the other hand, it can also be a deliberately applied business model to reduce taxes and social security contributions, compared to the taxes payable by employees.

### III. Derivation of the problems

Extensive research on platform work in which the German Social Security (DSV) has been involved, including that of the European Social Insurance Platform (ESIP) and the International Social Security Association (ISSA), among many other studies, has helped to shed more light on some of these issues. During this process, some important observations have been made which can be used to guide action.

- Only in a few cases has the attempt to qualify platform workers as "employees" of the platform been successful. As a rule, they are regarded as self-employed or are assigned a further special status which, however, differs from that of the regular employee.
- The search for adequate social protection for platform work reveals extensive gaps in social protection which already existed in most countries before this form of work appeared.
- These gaps vary from country to country depending on the type of insurance and the individual social risks involved. They are often the result of being classified as "self-employed" or as certain forms of atypical "dependent" (non-standard) employment (mostly short-term or marginal employment).
- A common feature is the often incomplete inclusion of "supplementary income" in individual systems. This can lead to a lower level of benefits, especially in the case of cash benefits such as pensions, but also to (cross-) subsidies from tax or social contribution funds.
- Only in a few cases was it possible or attempted to find solutions specifically tailored to platform work, e.g. in Belgium and France.
- Nevertheless, there are first attempts to hold platform operators responsible even when they only act as "intermediaries". This is usually done by making it compulsory for them to report payment data to the tax authorities, which are then forwarded to the social (insurance) authorities, where necessary. However, this procedure seems to have its limitations where platform operators are not established in the national territory. This was recently confirmed once again by a report entitled "A digital single window for income data from platform work", which was commissioned by the EU Commission.



## IV. Main points of discussion

Against the background of previous experience abroad (especially in the EU), the following complex of questions should be discussed from the perspective of the German social insurance system:

### 1 General information

a. Must we leave familiar paths when defining the level of social security?

b. There are repeated calls not to make the entire catalogue of social security compulsory for certain forms of employment but to limit it to a (graded) minimum level of protection and leave the rest to the individual's own initiative.

Is this perspective shared? Or should the existing elements of social security be extended more consistently to all forms of work, including the self-employed?

Discussions with "affected persons" and their organisations often reveal a dilemma: On the one hand, the need for an "appropriate" level of social protection is laid down but it is also pointed out to alleged or actual difficulties in making adequate financial contributions to this end. This is not a specific problem faced by platform workers but typical for self-employment as self-employed persons have to pay the full social security contribution, i.e. both employer and employee contributions, on their own. However, their income is often insufficient to achieve both objectives: a standard of living at least at the level of the minimum wage and the payment of an adequate contribution to finance social protection.

How should social (and fiscal) policy deal with the often low financial capacity of certain forms of employment - either by reducing their contributions or by insisting on a "fair contribution" equivalent to the social security contributions payable for standard employees? Specifically for accident insurance: Should individual risks associated to different activities be taken into account? And if necessary, how?

### 2 Platform work

a. Does platform work in its various forms really differ from existing work patterns to such an extent that its treatment under social law (and ultimately also under labour and tax law) needs to be completely revised?



b. Do we now have to shift our response to the European or even the global level because of the often cross-border nature of these issues?

c. There are various approaches to qualify platform workers as "employees", possibly with the option of shifting the burden of proof.

Is the approach of a targeted classification of platform workers as "employees" considered to be target-oriented?

d. Platform work in its triangular relationship (provider, user, platform) often has cross-border elements. This is repeatedly taken as an opportunity to call for European/global solutions.

Would a further development of the European definition of the term "employee" be helpful?

e. With regard to platform work, in particular, do we need more cross-sectoral cooperation between labour, social and tax administrations - also across borders?

One of the issues at stake here is the - also cross-border - establishment of a duty to report income generated via the platform. Such proposals exist at EU level, but also at OECD level. The most recent proposal is the introduction of a European 'Single Digital Reporting System'.

Do you consider such proposals desirable and feasible - possibly in combination with greater cooperation between financial and social authorities - or do they outweigh other data protection or administrative reservations?

Should concrete steps be taken to establish a European single digital reporting system? Should the European budget or the reconstruction fund be made available for this purpose?

Would you advocate a more far-reaching obligation for platforms to pay directly the social contributions owed by the self-employed?

f. In the case of platform work, the platform operator assumes considerable responsibility for the success of transactions between platform workers and users via the algorithms used. It does not primarily exploit an existing market, but creates it - even if it does not itself normally assume responsibility (liability, etc.) for the service provided to the end user. In any case, this puts the platform operator's business



concept close to that of temporary employment agencies, even if employees are not recruited but self-employed persons.

Against this background, do you consider it justified to make platforms the bearer/debtor of half a contribution rate - comparable to the corresponding obligation of an employer?

### 3 Binding European minimum social standards

In the context of the concretisation of the European Pillar of Social Rights, the European discussion on binding targets for the design of a minimum wage, a minimum income for the needy and, in general, on minimum social standards is gaining momentum. At the same time, there is also the question of not only formal but also effective access of self-employed persons and atypically employed persons to social security systems. Specifically, the aim is to close gaps that typically arise when switching between different jobs or between different forms of employment, e.g. in access to unemployment insurance and the level of unemployment benefit.

a. Would the definition of European minimum social standards for all forms of gainful employment be a promising approach also for platform work?

b. What specific contribution could European minimum social standards make to improving social security in Germany?

c. How can targets for a minimum wage also help self-employed persons?

d. Binding European guidelines for national basic security systems or other minimum social standards may, depending on their design, entail additional social security expenditure for many countries. Should Europe assume (co-)responsibility for these costs along with economically weaker Member States - if necessary also permanently - beyond the traditional social and regional support programmes? For example currently: first of all from the COVID-Recovery Fund (NextGenerationEU)?