



European Commission Public Consultation: Access to social protection for people in all forms of employment

Comments from the German Social Insurance from
15 January 2018

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 have come together because of their common European policy interests to form the 'German Social Insurance – Working Group Europe e.V.'

The German Social Insurance represents its members in dealings with the bodies of the European Union and other European institutions. It also advises relevant stakeholders in the context of current legislative proposals and initiatives.

Health insurance, long-term care insurance, pension insurance and accident insurance are part of Germany's statutory insurance system, which provides effective protection against the consequences of major life risks.

I. Preliminary Remarks

The umbrella associations of Germany's social insurance share the view that adequate access to social protection is important for the financial and social security of workers, as well as for a well-functioning labour market and sustainable social security systems. The associations welcome the debate led by the Commission on ensuring adequate social protection for all workers and the transferability of acquired entitlements when changing employment. This is because people's need for protection remains the same even if the world of work and traditional employment relationships change.

That said, in addition to the information provided in the consultation questionnaire and the issues raised in the European Commission's hearing on 15 December 2017, the umbrella associations of Germany's social insurance system wish to make detailed comments as follows:



II. Comments in Detail

1 Do you agree with the challenges and gaps identified by the Commission?

New forms of work associated with digitalisation and the changing world of work create new challenges in terms of the social security of various forms of employment, which raise questions regarding the need to adapt the social security systems. Changing employment means there is a need to address the issue of transferring benefits.

1.1 Formal and effective coverage

The umbrella associations of Germany's social insurance system do not see any gaps in the formal social protection of employees in Germany. If there is an increase in the number of people moving from dependent employment to less secure self-employment or an increase in the number of people unable to make contributions to social security systems due to their personal financial situation, there are effects on the design and financing of social security systems at national level. Where changes in the world of work create gaps in the protection provided by social security, these are identified and closed by action taken at national level.

1.1.1 Statutory health and long-term care insurance

The principle of 'insurance protection for all' is largely realised in Germany by compulsory participation in and entitlement to statutory health insurance, which covers around 90 percent of the German population. This is supplemented by obligatory private insurance and the fact that health care funds are obliged to accept applicants. This also applies to long-term care insurance.

In addition, there are statutory provisions for private health insurance funds, such as limiting premiums for basic tariffs, as well as the fact that social welfare institutions take over health insurance contributions of people in need to ensure they are entitled to benefits.

The entire regulatory framework ensures that fundamentally every person in Germany has access to high-quality, targeted health care. This also applies to people in marginal work. Although marginal workers do not make their own contributions, they are entitled to either statutory insurance (via compulsory, voluntary or family membership) or are obliged to take out private insurance.



The solidarity-based financing of statutory health insurance through contributions means that individual member groups are not financially overburdened. This is also true for the constantly growing number of full-time, self-employed workers who mostly do not have any employees of their own (solo self-employed) and whose income is often under the income threshold for contributions.

If the regulations governing the determination of contributions for self-employed workers, including statutory minimum assessment limits, no longer meet the changed living and income situation of this group, it is the task of the national legislature to draft statutory requirements in such a way that these people are not financially overburdened.

Both self-employed workers with private insurance and those who have voluntarily taken out statutory insurance can decide for themselves what to do about the issue of income protection in the event of illness. However, many self-employed persons forego income protection because the contributions or premiums for adequate protection are too high.

The European Commission has identified that there can be gaps in the effective coverage of people in self-employment and non-standard employment if their income and income-based contributions do not provide an adequate level of protection. In terms of German statutory health insurance, contributions are calculated as a percentage of income, but the scope of benefits provided (apart from sick pay) is comprehensive and independent of income.

1.1.2 Statutory Pension Insurance

With respect to German statutory pension insurance, all employed persons, as well as certain groups of self-employed persons such as tradespeople or artists, must have compulsory insurance. Self-employed persons who are not already covered by statutory pension insurance can choose to apply for statutory insurance or can voluntarily insure themselves, and thus acquire and maintain benefit entitlements. Certain groups of freelancers have compulsory insurance through occupational pension schemes.

The size of the pension a person receives depends primarily on the contributions they made. Under the German three-pillar model, statutory pension benefits are supplemented by company and private pension schemes. Together, all three pillars ensure that people have a decent income in old age. People who do not receive a pension, or only a small one, are entitled to basic pension provisions financed by taxation.



Gaps in effective coverage can arise if a self-employed person is not required to have compulsory coverage and also does not voluntarily enter into a pension scheme. It is the responsibility of the national legislator to find a solution for improved social protection for this group of people. One reform might be to include self-employed persons, who were not previously obliged to take out pension insurance, in the statutory pension insurance system.

1.1.3 Statutory accident insurance

In terms of insurance against workplace accidents and occupational diseases, employers must pay contributions, and membership in the accident insurance system is compulsory. All insured persons are generally covered by statutory insurance, regardless of the level of contribution made by their employer.

Germany's statutory accident insurance system covers not only employees but also includes school students, university students, children in day care and volunteers.

Self-employed persons can also insure themselves on a voluntary basis. However, insurance is compulsory for certain at-risk groups, such as taxi drivers or self-employed workers in the long-term care sector, either directly per legislation or indirectly per the statute of an accident insurance institution. The cost of insurance premiums for self-employed persons who voluntarily take out insurance is calculated according to the level of insurance chosen, current contribution base, and the risk class in which the business is classified according to the Risk Tarif Schedule.

Currently, most employees still work in traditional employment relationships. In the event of a workplace accident or occupational disease, the employer's liability is taken over by the relevant accident insurance institution. If digitalisation and other changes to the world of work result in an increase in new forms of work, this could have an effect on the financing of the system, as well as on the size of contributions and the scope of benefits. These issues pertain to the legal and financial structure of Germany's statutory accident insurance system. It is the responsibility of the national legislator to find sustainable solutions.

1.2 Transferability of rights and entitlements

Unlike traditional employment relationships, new forms of work are characterised by flexibility, career changes and an intermittent career. This can be both an opportunity and a burden for workers. For example, flexibility can help improve work-life balance. However, an intermittent career and frequently changing between



employed and self-employed status can make it difficult to transfer rights and entitlements (e.g. in terms of gaps in insurance cover).

However, the umbrella associations of Germany's social insurance system do not see the need to take action because transferability is guaranteed where necessary.

1.2.1 Statutory health and long-term care insurance

At the commencement of their employment, dependent employees are registered with a health insurance fund by their employer. At the end of their employment and the associated compulsory insurance, there are legal provisions which ensure that insurance coverage continues uninterrupted. Thus, there are no issues regarding the transfer of rights.

When there is a change between health insurance funds, insurance coverage is uninterrupted. The benefits provided by statutory health insurance funds are comprehensive and identical regardless of which health insurance fund is chosen.

1.2.2 Statutory Pension Insurance

Germany's statutory pension insurance takes into consideration not only periods of dependent employment but also periods of self-employment where compulsory insurance was required or voluntary insurance was taken out. The issue of transferability of rights does not play a role in these cases. Self-employed persons who were previously not covered by statutory pension insurance could be included in the statutory pension insurance system (see 1.1.2).

1.2.3 Statutory Accident Insurance

In terms of Germany's statutory accident insurance, it must be pointed out that insurance cover for workplace accidents and occupational diseases is mostly a direct result of being in an employment relationship with a company. In these cases, the company is the sole contributor and, in return, they are exempted from their insurance liability towards employees. Cash benefits or benefits-in-kind as a result of an occupational accident or occupational disease continue to be provided even if the employee no longer works for the company. When changing companies, the new employer pays the accident insurance contributions. At the same time, the accident insurance institution responsible for the new employer assumes the benefit obligations resulting from the new employment. As it is the employment relationship alone that determines whether there is accident insurance cover, this also exists in cases where the company has not paid their contributions.

The consequences of every work accident and every occupational disease are individually compensated. However, in order to reach certain thresholds for receiving these benefits, there are provisions which take into account the consequences of other workplace accidents or occupational diseases. This also applies to workplace accidents occurring in other countries.

Occupational diseases take into account the harmful effects of all employment and, where appropriate, other activities. In accordance with Article 38 of Regulation (EC) No 883/2004, this also applies to activities carried out in other Member States.

Certain groups of self-employed persons are covered by accident insurance, either directly through legislation or through a provision in the statute of an accident insurance institution. In all other cases, self-employed persons can voluntarily take out insurance against workplace accidents and occupational diseases with the relevant accident insurance institution. There are no waiting times or exclusions.

With the exception of changing from one accident insurance institution to another, rights and entitlements are not transferred. Thus, there is no need to take action here.

1.3 Transparency and regulatory complexity

The European Commission has pointed out that a lack of transparency concerning rights and regulatory complexity, particularly when regularly changing jobs or employment statuses, can disadvantage citizens.

The umbrella organisations of Germany's social insurance are of the opinion that regulatory complexity is dealt with by providing comprehensive information and advice. For example, Germany's system of statutory pension insurance has developed a strategy for providing comprehensive information, advice and guidance. This strategy consists of three elements: general information and advice on trends in the pension system; individual information on the pension rights a person has acquired and advice on how to structure their pension; and the ability to participate in dialogues with policy-makers or public discussions.

In terms of protection against workplace accidents and occupational diseases, comprehensive information and explanations are available on the websites of the German Social Accident Insurance (DGUV) and each of the accident insurance institutions. This information is freely available to the public.



In terms of Germany's statutory health insurance system, there are legal regulations in place which ensure uninterrupted insurance coverage when changing or ending employment. Registering and deregistering with a statutory health insurance fund is done by the employer. In addition, statutory health insurance funds provide their members with comprehensive information and advice. The National Contact Point for Cross-border Health Care provides information on the particularities of cross-border healthcare between Germany and other EU countries via their website EU-Patienten.de.

2 How should social protection be organised in a changing world of work?

Gaps in effective social protection can arise for self-employed persons who do not have compulsory insurance coverage. If there is an increase in the number of people moving from dependent employment with compulsory insurance to self-employment that is not subject to social security contributions, or if there is an increase in the number of people who, due to their personal economic situation, are unable to contribute to the social protection systems, this could lead to gaps in social protection over the long term, jeopardise the social protection system and place a burden on state welfare systems. However, if the changing world of work creates gaps in social protection, it is the responsibility of Member States to recognise these and close them.

The German Social Insurance is of the opinion that the organisation of social protection concerns the design and financing of the social security systems and thus the core principles of the social security system at national level. The EU has no regulatory authority in this area.

3 What should be done at EU level? Which EU policy instruments would be most effective?

The exchange of good practices, for example, via the open method of coordination and peer review at European level can help the Member States to achieve the objective of adequate social protection for all workers as described in the European Pillar of Social Rights. The German Social Insurance believes that these procedures can help Member States learn from one another so that they can ensure access to social protection in a changing world of work.

4 What effects do you expect from an EU initiative on access to social protection?

It would be especially helpful to encourage the exchange of information and experiences regarding challenges and ongoing processes in each country, as well as

provide information on good practices to help the Member States. This would allow the Member States to react faster when dealing with new developments in social protection so that they can make appropriate adjustments to their social security systems.

III. Summary

The umbrella associations of Germany's social insurance welcome the debate led by the Commission on ensuring adequate social protection for all workers. However, they believe that the Member States must be allowed to specify the core principles of their social protection systems and that action by the European Union should not significantly affect the financial equilibrium of these systems. This has also been expressly confirmed in the preamble to the European Pillar of Social Rights.

It is the responsibility of the Member States to implement the European Pillar of Social Rights' recommendation to ensure adequate social protection, regardless of the nature and duration of the employment relationship for workers and, under comparable conditions, for self-employed workers. In the opinion of the German Social Insurance, an initiative at European level that goes beyond the supportive measures outlined in Section II 3 is not necessary.