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Unemployment insurance for the self-employed: a way forward post-corona

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Abstract

With the COVID-19 crisis as background, the underlying paper elaborates on setting up an unemployment insurance for self-employed. While a comprehensive approach would have clear advantages, it is crucial to adapt the rules of existing insurances for wage earners appropriately addressing the specific needs of self-employed. Therefore, we discuss key rules and conditions with regard to self-employed and derive conclusions on how unemployment insurance for them should be designed. In this, we investigate the key elements of such an insurance.

When it comes to financing the unemployment scheme, we discuss how an income related contribution levied on the running income of the self-employed person could be organised. With regard to entitlement, we argue for a detailed conditioning and monitoring of the closing down of the business rather than focusing upon the involuntary character. Before the background of surging short-time work in the COVID-19 crisis, we reason that a short-time work parallel for self-employed is possible to organise in order to handle exceptional events but would have to be designed with sufficient restrictions. In order to avoid false incentives for excessive repeated use of unemployment benefits, we propose a certain experience rating that is less abrupt than existing re-eligibility criteria and thus still provides continuous protection. Regarding labour market availability, we recommend to balance swift labour market integration and productive matching of entrepreneurial persons into self-employment by criteria giving leeway to self-employed activities as far as possible, but over time also guaranteeing an effective labour market integration. For dealing with the combination of multiple jobs and activities, we provide some guiding principles how to organise an unemployment insurance including entitlement and contributions in an integrated manner around activities, based on total work-related income.

Keywords

self-employed, social security, unemployment

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1 Introduction

Before the background of the COVID-19 crisis, this paper elaborates on setting up an unemployment insurance for self-employed. The spread of COVID-19 has placed economies, labour markets and social systems worldwide in a state of emergency. The disruption of supply chains, the slump in world trade and export demand, as well as the loss of working time would have been enough for a major recession. But the drastic lockdown of domestic economic activity, particularly in the areas of public life, represents a completely new challenge.

The political reactions are correspondingly far-reaching. Governments around the world have been struggling to safeguard jobs and firms. Thereby, wage earners in standard employment relationships benefit from short-time work subsidies or unemployment benefits in case of job loss. Especially short-time work surged in many countries. However, the lack of social protection for many self-employed became evident as a serious gap in social systems. Indeed, the crisis hit especially the self-employed in various sectors of personal and business services, but usually only a minority of them is covered by the unemployment insurance. Therefore, many self-employed got into financial difficulties, and many governments were forced to install ad-hoc liquidity support packages. Still, restrictive conditions, complicated design, lack of experience or uncertainty in how far operating expenses or costs of living as entrepreneurial salary are covered often made it difficult to reach an appropriate utilisation of such programmes.

Whereas mandatory unemployment insurance is the widely spread standard for wage earners, access of self-employed is usually restricted to voluntary schemes with various regulations in different countries. Effective coverage turns out to be weak (Spasova et al. 2017; Spasova et al. 2019), so that fundamental risks connected to the uncertainties of working life are regularly not insured. Social protection systems were primarily developed for standard workers, implying a long-term, full-time work relationship (Schoukens/Barrío 2017); hence, systems are not always tailored to the specific work situations of self-employed and other non-standard workers (Schoukens et al. 2018, OECD 2018). Therefore, we focus on the development of comprehensive contribution-based unemployment insurance schemes for self-employed protecting the loss of prior occupation.

That said, due to the nature of their work, how to include self-employed into the unemployment insurance is not a straightforward task. Impractical solutions could deter many self-employed and question the general beneficial effects. Therefore, in the underlying paper we discuss key unemployment insurance rules and conditions with regard to self-employed. We derive conclusions on how schemes should be designed and make suggestions for practicable steps forward.

The paper is structured as follows. The subsequent section maps existing unemployment insurance schemes in general and for self-employed in particular. Afterwards, section 3 makes the case for a mandatory unemployment insurance for self-employed. Section 4 covers financing issues and section 5 treats the access and entitlement conditions. Sections 6 and 7 are devoted to unemployment insurance for combined activities and for temporary unemployment, respectively. The last section concludes and sets out avenues for further political progress.

2 Mapping the unemployment schemes

Typical social protection systems were originally organised guided by the conditions of standard work relationships with a long-term and full-time character (Schoukens/Barrio 2017). Self-employed work can differ from this standard in several respects. This concerns for example the less steady flow of income and the far more flexible and self-determined working time. Logically, conventional systems are not always tailored to the specific work situations of self-employed (Schoukens et al. 2018, OECD 2018).

It follows that social security for self-employed needs to respect their specificity. In order to accommodate this specificity, the system will need to be neutral in its design as regards labour status, yet sufficiently specific in its application rules. The weakness of existing systems in this respect is often more connected to effective rather than only legal coverage of social protection. Therefore, there is no need for ideal types of schemes that cannot be applied to improve reality because they give no effective access to benefits.

Notwithstanding, in designing social security systems, conditions should be universalised as much as possible for all working groups. Insuring risks connected to the uncertainties of working life is subject to basic principles that can be applied on a broader scale. This comprises fundamental guidelines such as equivalence, solidarity, financial sustainability as well as adequacy of benefits and contributions. In this, unemployment insurance systems should be sufficiently transversal across the various schemes in order to guarantee protection in case of frequent labour market transitions or multiple jobholding.

Therefore, in the underlying paper we discuss how unemployment insurance schemes can be extended to self-employed and how they should be adapted in order to guarantee effective coverage and pragmatic functionality.

Before we start with this analysis, we highlight that our focus is upon unemployment insurance addressing the lost income due to the loss of previous occupational activity. Unemployment as a social risk can in fact refer to different situations: either the emphasis is upon covering the absence of (paid) work or it can be on the loss of paid employment that one had before (Pieters 2018; 32-35). In the first type of unemployment, the earlier work record will be less relevant. If unemployment refers to the loss of previous paid work, the earlier work record becomes more prominent in the design of the scheme. In such a case, compared to the first type of unemployment schemes, it is more likely to have part-time unemployment schemes in place where the entitlement to an unemployment benefit (compensating the lost work) can still be combined with income from work (within given limits). It reflects concretely schemes of partial unemployment where the beneficiary combines a benefit with income from the remaining work or where the beneficiary maintains a part of the unemployment benefit to compensate for the lower remuneration in a new job. The definition of unemployment as the loss of paid work is more often to be found in a social insurance based approach, whereas the coverage of the more general absence of (paid) work is more the approach taken by general social assistance and/or by the categorical unemployment assistance schemes.

Very often countries have both unemployment insurance and social assistance schemes in place, the latter, in relation to the risk of unemployment, sometimes subdivided in a general social assistance and a specific (categorical) unemployment assistance; the latter targets the persons who do not have work and hence are left without sufficient means; slightly different entitlement conditions may be applied and another means testing may be in place, more restricted to work income. The social insurance covers then often the first period of unemployment; the social assistance scheme is reserved in a residual manner for the unemployed who have exhausted their entitlement to benefits under the social insurance scheme or for those who in general did not qualify from the outset for unemployment insurance (such as e.g. the self-employed). For this contribution we will focus upon the unemployment insurances.

Self-employed traditionally were not targeted by unemployment insurance. It was considered not to be possible to cover the risk of unemployment for self-employed. Two main reasons were invoked. Self-employed are characterised by taking economic risks, one of these being that the business has to stop because of lack of economic success; secondly one of the major conditions to assess the risk of unemployment (for the wage-earners) is its involuntary character; benefits are not to be granted to persons who on voluntary basis stopped to work. In case of self-employment it is difficult to assess the involuntary character of closing down the business. To what extent is the self-employed to be blamed for the business failure (for instance because of mismanagement or the wrong assessment of the potential economic success); what to do with self-employed who deliberately stopped the business?

Nowadays, the situation is quite different. A majority of European countries have some kind of unemployment protection in place for the group of self-employed persons. From a recent consultation of the MISSOC comparative social security tables covering the EU, EFTA and Switzerland we came to the following fact-findings (MISSOC; 2020):

Only nine countries reported to have no unemployment insurance in place covering self-employed (Bulgaria, Cyprus, United Kingdom, France, Italy, Belgium, Latvia, Malta, the Netherlands). However, of these countries it was reported by the Netherlands that there is a specific social assistance for self-employed available, in particular for self-employed who had to stop the business and/or where the business revenues due to old age or invalidity are below a defined minimum subsistence; in Belgium there is a specific social insurance scheme in place guaranteeing a flat rate income replacement for self-employed who had to close down business; the scheme is formally not to be considered as a genuine unemployment insurance due to the multi-tier coverage that goes beyond mere income replacement (e.g. the continued insurance for health care is provided as well for this group of self-employed is considered to be more important than the income replacement covering the loss of revenues). Moreover, three countries reported that self-employed who become unemployed are directed to the general unemployment assistance in place (Estonia, United Kingdom, Germany). In some countries (Belgium, Luxembourg and Austria) it has been reported that self-employed can fall back upon the unemployment insurance for employees if they had a prior insurance record built up as wage earner (before they started up the self-employed activity).

Of the countries that have some kind of protection in place, three countries know a specific unemployment insurance for the self-employed (Portugal Greece and Spain). The majority of countries having unemployment insurance available for self-employed do cover the group together with the other professional groups (i.e. wage earners) in the general unemployment insurance (Iceland,

Austria, Croatia, Czech republic, Denmark, Finland, Hungary, Ireland, Lithuania, Luxembourg, Poland, Romania). Some countries report that they adapt the entitlement and financing conditions in these general schemes to the specific working situation of the self-employed. Two countries reported (Denmark and Ireland) that they organised the unemployment scheme in a neutral manner regarding labour status. Instead of building the conditions in terms of wage earner status or self-employment, they are now defined in terms of professional activities. In that way the scheme moved from an occupational insurance towards a more activity based insurance, as this guarantees a better unemployment protection to all professional categories present and allows a more effective protection for persons who combine two or more mixed activities (as wage earner and self-employed). Furthermore, it should be pointed out that in a majority of these countries, the unemployment insurance is only made available on a voluntary basis (Austria, Germany, Finland and Sweden for the occupational (2nd) pillar, Denmark, Romania, Spain and Slovak republic; with the exception of the Scandinavian states, it turns out that only a minority of the self-employed take (on a voluntary basis) the insurance; hence the majority remains without any specific protection for unemployment.

In all countries self-employed can always fall back upon the general social assistance schemes in place if their income is below the minimum subsistence threshold (e.g. due to closing down of the business).

3 The case for mandatory unemployment insurance

By default, for substantive reasons social protection is organised on a mandatory basis (Pieters 2006). In contrast, for self-employed, voluntary and often fragmentary schemes dominate. While these schemes usually leave a lack of social protection for most individuals involved, this section makes the case for a comprehensive coverage of self-employed in the unemployment insurance. This has high importance from several perspectives.

The work perspective: Social protection is most effective when it connects to the earning of income rather than to a specific legal status such as a standard employment relationship. This would align to the objectives of social insurance, i.e. protecting against loss of income due to contingency. The separation of self-employed and dependent work becomes increasingly blurred (Packard et al. 2019). Over the life-course, changes in the status can become more and more relevant (Commission EU 2018, 14-15; Schoukens 2019, 6). Mandatory insurance can avoid both false incentives to shift jobs to bogus self-employment for costs saving arguments and the risk of additional payments due to the uncertainty if specific activities may be classified as dependent work.

The welfare perspective: There is no natural difference in the need for social security between wage earners and self-employed; unemployment is a relevant phenomenon also for the self-employed (Codagnone et al. 2018, p.72 and p. 81).¹ In absence of social security and in case of need, social (assistance) benefits step in. But then, tax payers end up as de-facto insurers actually subsidising unsustainable developments in specific sectors (this in turn being in some systems the reason to have turned social insurance mandatory for self-employed; Schoukens 2000; 80-81). The plethora of emergency schemes established in the corona crisis could tempt into anticipating bailout measures for critical situations, so that adequate precaution could be disincentivised. Such considerations and a focus on short-run earnings lead to underprovision of social insurance.

The market perspective: Contributions represent additional costs. However, even if formally the self-employed pay the contributions, in a market, the burden is shared between the two market sides. With mandatory insurance covering all individuals, higher market prices will reflect higher costs. In contrast, in the absence of social security, there is the risk that remunerations can be pushed below a sustainable level.

The participation perspective: Voluntary access implies that a certain part of the individuals will decide not to join (either explicitly or due to a lack of consideration). A mandatory scheme avoids a selection of risks such that the insurance can be sustainably organised. It turns out that groups deciding not to join are mainly found at both the highest and lowest levels of income (Codagnone et al. 2018). For the lowest income level, this shows the intrinsic weakness of the voluntary approach. Losing high-income groups is equally problematic, not only with regard to guaranteeing the financial sustainability of the system, but also for maintaining the trust of the public. Effective coverage turns out to be weak. Reasons for that can be asymmetric information, insufficient awareness of social rights and responsibilities, problems in reaching minimum thresholds or adverse selection and moral hazard as explained above. In this regard, experience with voluntary unemployment insurance schemes shows that they require substantial public subsidies to reach relevant coverage rates. Notwithstanding, self-employed persons often consider insurance for unemployment as a necessary element in their protection (Codagnone et al. 2018, p.76 and p. 102; Schoukens, 2019, p. 8), being inclined to accept mandatory insurance for this risk.

The dynamic perspective: Social protection can have important dynamic effects that will remain subdued in case provision of good effective coverage fails. Without social protection, in times of hardship precarious situations are exacerbated – e.g. if time cannot be spent for education anymore or personal capital goods have to be sold. Furthermore, individual investments in the future, for example in education and training and career development, will be thwarted for fear of calamities. Instead, social protection strengthens sustainable productive development of the potentials, including the willingness to invest and to take risks, and career development prospects (the more so if the insurance comprises continuing education services to which many self-employed without a firm context do not have organised access). Logically, this has also positive external effects on the whole economy. On the downside, excessive risk-taking and business failures due to moral

¹ As one of the reasons for not becoming self-employed, 49% of interviewed mentions the lack of social protection. Unemployment benefits are ranked as most important benefit across all benefits (35% of the respondents; no difference in response between the groups of employees and self-employed). Together with pensions, individuals are mostly concerned with unemployment and less with other benefits (Codagnone et al. 2018, p68-76).

hazard must be prevented by incentive-compatible regulation (as discussed below); in an evaluation of the Danish unemployment insurance, Ejrnæs/Hochguertel (2013) find no sizeable moral hazard effects in business failures. In the dynamic sense, all those involved, including the customer side, would benefit from insuring unemployment risks.

Traditionally, insuring income risks of self-employed is often seen as contradicting the nature of taking risks. However, from several perspectives, unemployment insurance also beyond standard wage earners shows potential to contribute to a sustainable, productive and social labour market development. Notwithstanding, besides these advantages, unemployment insurance for self-employed can also involve some critical points. It is crucial adapt rules appropriately addressing the specific needs of self-employed (Schoukens/Barrio 2017). Therefore, in the following sections we discuss key rules and conditions with regard to self-employed and derive conclusions on how unemployment insurance for them should be designed.

While we made the case for a mandatory unemployment insurance, most aspects of insurance design are equally relevant to voluntary schemes. Therefore, the following considerations largely do not depend on the character of the scheme.

4 Financing

As mentioned in the introduction, our focus is upon the development of a comprehensive contribution-based unemployment insurance post-corona. The goal is to finance income replacement in case of unemployment by contributions paid from current income. Logically, regarding financing, the notions of income, contributions and benefits are central.

Since the goal followed by an unemployment insurance is given by stabilising income connected to work, the full income related to the self-employed activity should be considered. Depending upon the system in place, an income basis comparable to the one of the wage earners is to be used for the self-employed. Most likely this will be the income before taxes but after deduction of costs. For verification, the income related to the self-employed activity ascertained in the tax return can be used. Depending on the activity, self-employed may have substantial business-related expenditure. Some of these deductible expenditures (investment costs, business car) may have a justification for tax reasons, yet may be less suitable for social security use. Thus, some deductions may be modified, leading to a socially corrected income. This will be a policy that more than likely will be applied for all social security schemes, and not only for the unemployment insurance.

Determining realised income after deduction of costs on a current monthly basis will often be practically infeasible. One might refer to income that has been already formally approved in the past (most often by tax authorities). When the income has already been formally established by the tax authorities, it can be considered as a fixed income basis for the collection of social security contributions and hence no provisional payments have to be made. This approach has the advantage of providing certainty for the self-employed when paying contributions. The disadvantage of this approach, however, is that a time gap emerges between the year the income has been reported for tax purposes and the year that it is used in its consolidated form for contribution collection (two to three years depending upon the particular system in place). The economic circumstances in

which the self-employed person works may be different and the current income in the year of payment may depart quite substantially from the income that once served as the basis for a tax declaration.

As an alternative, one might refer to estimated net income, which should be organised as realistically (pragmatically) as possible. For the estimate, one may refer also to already established tax returns as a basis. However, adjustments can be made based on recent income development and expected changes. Particularly, current revenues should often be relatively easy to measure. Then, estimation mainly refers to the costs. Here, one may rely on a certain baseline lump-sum deduction that is individualised based on experience and in case of major changes that currently occur. As an option, in a later stage, once the income is known and established, corrections can be applied, leading to an extra collection of contributions (when the provisional earnings were declared too low) or to a refund (in case of too high provisional payments). However, in order to keep efforts low, it might also be enough to draw on the past deviations of estimated and realised income for forming expectations underlying future contribution payments. In any case, as unemployment is by nature a short-time risk (opposed to e.g. pension schemes), financing following a measure of current income would have clear advantages.

Both approaches presuppose a cooperation with the tax authorities and the use of tax data. As an alternative to this cooperation, the social security system may opt for determining the income levels by themselves, separate from the tax system. In such a situation, often a system is applied, where the self-employed may choose their contribution level that comes with a certain benefit level. The advantage lies in the practical simplicity. For voluntary schemes, such a solution may seem attractive. However, it may fall short of the requirements of comprehensive compulsory schemes. The issue of non-participation known from voluntary schemes would probably reappear in form of choosing the lowest possible contributions. Evidently, this would trigger adverse selection and hamper important principles such as solidarity, financial sustainability and benefit adequacy. Key arguments from section 3 would be clearly weakened.

As mentioned above, due to the goal of income stabilisation, it is sensible to consider the full income related to a self-employed activity. This basis should be independent from the type of income, particularly if the activity is organised in a legal entity. Logically, if in the relevant national system there is relevant discretion on shifting between remuneration, dividends etc., it would be advisable to take into account the full income from the legal entity related to the self-employed activity. The case of the growing integration of self-employed activities into legal entities shows it is very hard to keep the distinction between income from professional activities and related income from capital. For this reason, several European countries already follow a broader approach.

What should be the contribution rate for self-employed? Regarding unemployment risks, the self-employed represent a diverse group. Differentiating contributions by group unemployment risks is rather uncommon in European social security systems building on solidarity principles. Indeed, high unemployment risk often coincides with low income. If one does not wish to depart from the existing avenue, per se equal contribution rates for all individuals would be suggested. However, if potential financial imbalances play a key role for political decisions, one could monitor unemployment incidence of self-employed compared to wage earners and set the contribution rates accordingly. Notwithstanding, at least within the current regulatory frameworks, transition rates

of self-employed into unemployment give no cause for the concern of going beyond usual levels (Fondazione G. Brodolini 2018, p.20-21).

If the contribution level should be comparable to the one in place for wage earners, should the self-employed pay the sum of both employee and employer contributions? Using the same contribution rate is to be preferred when both groups face a similar risk to become unemployed and if the income basis from which the contribution is levied, is comparable. Answering these preconditions will not always be evident. At the end of the day, it will be more relevant to have contribution levels in place that make a sustainable social protection possible. At the same time, it can be an incentive to introduce 'third party' contributions (comparable to the employer contribution) which co-finances the social protection scheme of the self-employed group. This could for instance be applied for self-employed who work through an interface (such as a platform): where self-employed groups are contracted through an interface institution – the client paying the interface for the purchased good or service –, the contribution is withheld directly at the source by the interface institution in this system and paid directly into the social protection scheme (such as in the Digital Social Security concept addressed below). Formally, the amount could be deducted from the remuneration, paid by the customer on top or contributed by the interface institution (or various combinations).

The Digital Social Security concept of Weber (2018, 2019) would implement a digital mechanism in the platforms, which transfers a percentage of the agreed remuneration to a personal social security account of the platform worker each time a job is finished. Making use of digitalisation, this enables a pay-as-you-go system for platform work, thus extending the advantages of common systems for wage earners: In view of high cash preference and information deficits, arrears of payment and surprising additional demands as well as contribution evasion are avoided. Such systems would provide high efficiency for customers and platforms and decisively increase effective coverage. The DSS-principle may be extended to self-employed beyond platform work. The concept of deducing contributions directly at the platform could be mirrored when digital invoicing becomes the standard. Then, providing a universal digital interface to an electronic contributions system would allow an efficient standardised handling of social security contributions from both the self-employed and the customer.

According to the principle of equivalence, by default the benefit level for self-employed should follow the calculation for wage earners: The same contributions should generate the same claims. As a general guideline, the benefit level could simply be linearly derived from contributions paid within a certain time frame (see below). Notwithstanding, a certain experience rating may be implemented for dealing with false incentives specifically connected to self-employed activities, as explained in section 5. Still, redistribution from low-risk to high-risk workers would remain.

In social insurance, often upper and lower income bounds apply. The former represent assessment ceilings that define the maximum income to be insured. The latter represent an access condition that is discussed in section 5. Generally, it is advisable to also use second (or multiple) jobs to finance personal social security, as discussed in section 6. Particularly, lower bounds should apply to total income, not to each job individually. Furthermore, the more volatile character of self-employed earnings should be taken into account. When applying absolute bounds, rather than evaluating income on a monthly basis, an average over a period such as a year should be considered. A certain period directly before applying for benefits may be optionally excluded in order to avoid

incentives for overhasty business close down once the earnings situation deteriorates. Access conditions are treated in section 5 below.

In contrast to employees who earn a guaranteed wage from the first month onwards, income in the start phase of self-employed activities is likely to be uncertain and to fall short of a later steady-state level. Moreover, young firms are more likely to channel saved means into business expansion (Benzarti et al. 2020). Therefore, one may consider setting a lower contribution rate in this phase. Realistically, however, then the contributions would in many cases not be sufficient during this period to generate unemployment benefits above the social assistance level. This could be solved if hypothetical contributions at normal level are used for accessing benefits and calculating claims. Logically, for such a solution one would have to accept a certain degree of cross-financing from other contributors or tax for the start phase.

Especially for self-employed, practical simplicity and low administrative burdens of insurance schemes play a non-negligible role. Since the mere collection of contributions is unspecific with regard to the respective scheme, (mandatory) unemployment insurance contributions should be administered together with other social insurances such as health and pension.

5 Access and entitlement conditions

5.1 Access conditions

As explained above, our focus is on unemployment insurance in the sense of protecting the loss of prior occupation. Logically, before claims can be made, certain prior minimum work, contribution and/or income are required.

The extent of working hours is a difficult element for assessing entitlement of access in the case of the self-employed. Neither do they usually keep track of the number of working hours, nor would it be practicable to verify such a number, nor is the earned income always standing in an equivalent relation to the number of working hours. Therefore, access conditions for self-employed should be income-based. In case of a fixed contribution rate, this will coincide with a contribution-based access condition. The minimum contributions find thus their origin in the minimum financing income. This means that requiring certain minimum contributions for accessing the scheme can then be recommended.

Lower bounds in social security systems are connected to the assumption that a certain minimum of income is needed to earn a living. This is considered as the basis from which contributions are to be paid. While such bounds involve non-trivial social policy decisions, those are not specific to the group of self-employed. Rather, a default solution would be to apply the regulations that are in place for wage earners in each country. This assumes that comparable legal concepts of income are taken as a basis.

Naturally, self-employed income can fluctuate even if the activity itself is continuous. Applying a minimum contribution avoids that for certain time periods the self-employed is not covered any-

more when failing to reach a required minimum income. This means that the self-employed is considered to pay contribution (minimum) from a virtual minimum income level, even if in reality income may fall below.

In case the self-employed is not able to pay the required minimum contributions ('low income of temporary nature'), an exemption to pay can be granted. By use of a temporary payment exemption, the complete loss of social coverage would be avoided. It would however have an effect upon the eventual protection (coverage). It can result in a longer waiting period of payment: the first period unemployment would not be covered (suspension of payment). Alternatively, the maximum duration may be shortened.

As an access condition, at least minimum contributions would be required in a minimum number of consecutive periods (months / quarters). What now if a person after a period of unemployment starts up again activity but does not reach the minimum to open again unemployment entitlement? We are of the opinion that non-employment gaps should not immediately lead to the loss of coverage. Here, it would make sense to apply the regulations already in place in the unemployment insurance for wage earners. For instance, one could think of a time frame of a few years within which payments should be received in a minimum number of months.

In general, regarding access conditions it is possible to think of an overarching rule applicable for all groups. For wage earners, a minimum level of contributions within a certain time frame paid in a minimum number of months practically coincides with a certain lower bound for the monthly salary. Thus, while for employees work is usually measured in hours, income- or contribution-based approaches are applicable. Therefore, the above-discussed regulation for the self-employed is connectable to the logic of many social security systems. This has the further advantage that different activities can be integrated into the same insurance scheme. Access would not have to depend on whether contributions were paid from a previous wage-earner job, only from self-employed activity of both. This is especially beneficial in view of income security being particularly important during transitions from one job or activity to another (ILO 2016).

5.2 Entitlement conditions

The entitlement to unemployment benefit is conditioned by several factors. First and foremost, the unemployment should have an involuntary character; the unemployed person should actively look for a new job or occupation and should thus be available for the labour market; formally he/she should register at the labour market services so that they can provide support for the job search and can monitor the follow-up of the conditions. The unemployed persons should be capable to work (otherwise he/she may claim a work incapacity benefit), not of pensionable age, have no labour income and no (professional) activity. Our main attention will go out to the elements of the involuntary character of the unemployment, the availability to the labour market and active job search as they often seem to be problematic for the group of self-employed.

5.2.1 Involuntary unemployment

One of the major conditions for wage earners is usually that the unemployment is of an involuntary nature; the worker is not to be blamed for the unemployment. If they are, no entitlement to the benefit is granted or alternatively the worker is sanctioned during a first period of unemployment (suspension of the benefit). In the case of wage earners the (in)voluntariness is depending strongly

on the dismissal (how the worker was dismissed). Involuntary unemployment is the consequence of a dismissal for which the worker cannot be blamed (dismissal given by the employer that is not grounded on serious misconduct by the employee).

By analogy, the involuntary closing down of the self-employed activity would be an essential element in the evaluation of the unemployment. Yet, checking whether self-employed stopped their business voluntarily can be difficult since a formal layoff does not take place and information is asymmetric. Closing down a business that is still profitable and generates at least a reasonable subsistence income may for example be seen as a voluntary quit. Even closing down the business because of individual mismanagement by the self-employed could also be considered as unemployment provoked by own misbehaviour (and thus of a voluntary character). Assessing the involuntary character of unemployment is thus a challenging exercise when applied on the group of self-employed. Logically, this condition will have to be reconsidered for the self-employed due to the absence of an employer.

However, this may be true as well for the employees. Dismissal can follow the fact that the employer is not impressed by the quality of work delivered by his/her employee although the worker did not misbehave as such. In other words, a more zealous attitude of the employee in the past could have possibly prevented a dismissal.

Apart from the difficult assessment of the (in)voluntary nature, we also notice an evolution regarding the legal consequence that are given to voluntary unemployment; workers in many systems will become entitled to a benefit anyhow after a certain period of benefit suspension. Voluntary unemployment that is being sanctioned with no entitlement at all is restricted to the situation where the unemployment is intentional: in case a person stops to work with the intention to get benefit. In other words, wilful misconduct cannot be a basis for benefit entitlement.

For self-employed the main criterion to assess the unemployment situation should be built around the formal shutting down of the business.

Opening entitlement will thus presuppose that the business has been shut down formally. Such formal steps can be inspected by the relevant authority, e.g. inventories sold, permissions cancelled, business deregistered, etc. In practice this control will not always be evident as some self-employed activities are done without too much formal structure or without formal affiliation with a firm. But even then, the self-employed will have to claim formally that the personal business activities have been stopped; subsequently, a control of this claim (in case of doubt) can be undertaken and it can be checked whether there is a loss or earnings that result from this. Possibly such a check can be conducted (ex post) in cooperation with the tax office (e.g. via the tax return).

As it is the case for wage earners, if wilful misconduct is at the basis of the closing of the business, no entitlement to the benefit can be granted. For self-employed this could mean that fraudulent bankruptcy cannot be the basis for opening unemployment entitlement; nor does the situation where the business has been closed down with the sole intention to become entitled to a benefit.

Furthermore, closing down the business will not be sufficient as entitlement condition; there should be still a loss of income resulting from this termination of operations. If the self-employed business has been sold with substantial profit for example, the self-employed cannot receive unemployment benefit. As a general rule, unemployment benefits cannot be paid as long as income is retrieved from the prior occupation (redundancy pay for wage earners).

Self-employed are likely to have higher income fluctuations than wage earners. If future income is expected to be low, registering as unemployed may be preferred; together with the difficulty to check on the involuntary character of their unemployment, existing systems set restrictions in order to limit false incentives. Voluntary quits are usually associated with the introduction of waiting period before benefits can be received (see above). By the same token, re-eligibility criteria are often applied. For instance, repeated claims could be excluded for a certain period. This is the case already now in some existing voluntary unemployment insurance systems for self-employed. Alternatively, the total number of claims could be restricted; in extreme cases the self-employed could be allowed to a benefit only once in their professional career (as self-employed). The clear disadvantage of such approaches is that coverage would be lost also in case of real contingencies. Alternatively, benefits may be tied in less abrupt ways to the work history. Concretely, one could assign a lower benefit level to individuals who often register as unemployed. Such an experience rating would discourage an excessive use of unemployment benefits while still providing continuous protection. In order to avoid benefit reductions below the social assistance level, lower limits may apply. Alternatively, waiting months could be introduced, but this would not guarantee continuous protection. Moreover, instead of adjusting benefits, future personal contribution rates could be raised. However, this would increase the financial burden in the starting phase of a new self-employed activity after unemployment.

While experience rating is uncommon in European social security systems for wage earners, such a solution for self-employed could be justified by the different character of the activity, as explained above: the advantage of setting efficient incentives would be especially important here and may outweigh the disadvantage of a lower level of income stabilisation. Finally, seasonal closures could be excluded, or may in general be handled in parallel to equivalent short-time work options for wage earners (see section 7).

5.2.2 Availability

For claiming unemployment benefits, being available for the labour market is one standard prerequisite. Usually, registration at the labour market service represents a first step. This would be handled identically for self-employed. The question for which activities they would need to be available is more intricate. Besides taking up a new self-employed activity, the question of availability for wage earner jobs and active labour market policy arises.

On the one hand, for reasons of swift labour market integration and comparable treatment of all jobseekers, such availability should be required. If no further self-employed activity is planned, this would be the default solution. On the other hand, if such plans play a role, undue pressure to accept wage earner jobs might ignore the individual background and potentials of self-employed. Planning to take up a new self-employed activity might take some time. Interfering with these processes could hinder a productive matching of entrepreneurial persons into self-employment. Notwithstanding, not in all cases a further self-employed activity is necessarily realistic or desirable.

For a suitable solution, it may be advisable to strike a middle ground between a flexible development of self-employed potentials and an effective labour market integration. Specifically, this could include a first phase of several months in which there is an exemption to look for wage earner jobs if serious plans exist towards new self-employment. To limit unsuccessful tries, in a second

period the default approach would be to look for wage earners jobs and to be open for active labour market policy measures unless there are clear reasons not to have this imposed – if, e.g., a self-employed activity has not yet been taken up but concrete steps are foreseeable. Such a second phase would represent a middle ground between a protection scheme fully specific for the self-employed and unemployment assistance programmes that treat all benefit recipients uniformly as to the labour market availability.

As usual in unemployment insurance programmes, availability for the labour market has to be accompanied by active search. Making proof of looking for job opportunities would be standard as far as wage earner jobs are concerned. In contrast, self-employed activities are usually not offered but need to be created by own initiative. Such initiative would either be accompanied by case-workers in labour market services anyway, or it would have to be verified by presenting appropriate plans, concepts and steps taken. This might concern both starting new self-employment or resuming a previous activity for which realistic perspectives can be shown to exist. In case such efforts are not made, availability for the whole labour market would be required also in the first phase following the existing rules for wage earners.

6 Benefits for combined activities

As argued above, insuring unemployment risks represents an important step towards income security for self-employed. This is especially true for those individuals relying on self-employed work as their main source of income. However, in order to support social protection through various sources of income and to guarantee equal treatment in this regard, secondary (and further) jobs should be subject to social security, too. Often, this is also necessary to reach an appropriate level of social protection once risks materialise. Moreover, trends may proceed that persons may combine increasingly a number of different (small sized) activities which, added together, may be the equivalent of a full time occupation. Hence, it will be difficult to uphold the organisation of unemployment schemes in a separate manner around certain professional categories (wage earner or self-employed); this guides us to have it organised in an integrated manner around activities.

Logically, eligibility should be based on total work-related income, or contributions from this income, respectively. This includes wages from salaried employment, earnings from self-employment, surplus in own company and secondary activities. Then, unemployment would be defined in relation to activities rather than to a categorisation as either wage earner or self-employed. By the same token, it will not be sustainable to work with main insurable activities and exempted activities. The latter often refer to the side-activities; however in a situation where it becomes increasingly difficult to quantify work size on the basis of working hours, it will become hard to differentiate between main and side activities. Consequently, all involved activities should be generally relevant both for benefit entitlement and contribution payment for the unemployment scheme.

Entitlement in case of multiple jobs requires further specific considerations. If only one job is lost, part-time unemployment would result. Existing systems deal in different ways with this situation. The (part-time) lost activity will call for a (partial) income replacement (in line with the lost income

and working time). However, unemployment conditions are also stipulated in function of labour market availability (see above) and hence have restrictions for the remaining activities and earned income from these activities. A criterion such as an upper bound for the number of hours worked or income earned for registering as unemployed may be in place. Then, benefit entitlement would be given only if the remaining activity is rather marginal. While such solutions have the advantage of simplicity, income stabilisation is very incomplete for persons with multiple activities.

Instead, if contributions are paid equally from all sources of income, claims may arise proportionately to the share of income lost.

The question is whether all activities – whatever the size – are to be treated in an equivalent manner for opening entitlement, as well as for the monitoring of the labour market availability. Some guiding principles could be applied here:

1. The activity would have to fulfil the above-mentioned access conditions, i.e., minimum income/contributions in a minimum period. The minimum contribution from each individual activity can be a certain fraction of the total minimum.
2. Experience rating could be applied as described above.
3. The benefit granted for the activity can be combined with the income from the (remaining) activities up to a maximum limit. The income beyond that limit could be subject to linearly increasing deduction from the benefit.
4. The status of part-time unemployed would require looking for a new additional part-time job or looking for a full-time job as a replacement of the previous part-time activities. I.e., the availability must not be jeopardised by the performance of the remaining activities.

The two latter points could equally apply in case a part-time activity is taken up by a full-time unemployed. Specific restrictions on the maximum duration of part-time unemployment may apply in this case.

7 Temporary unemployment

Income from a self-employed activity can also fall (partly) away even if the activity is not fully stopped. For instance, this was the case with many self-employed in the COVID-19 crisis who did not drop out of business but lost large parts of their current income. In contrast, applying an entitlement condition of formally closing down the business means that virtually only formerly self-employed persons could be entitled to benefits. Logically, in the situations above, (part) unemployment benefits with respect to a temporary impairment of business activities could be granted. In spirit, this would parallel the short-time work subsidies for wage earners, which proved their worth during the extensive use in the crisis. However, the specific character of self-employed work must be accounted for.

The Covid 19-crisis led to a series of initiatives that broadened the scope of income replacement towards the self-employed in ad-hoc rescue packages. What does temporary unemployment mean for self-employed? Some initiatives restricted it to the situation where self-employed were forced by the government to close (temporary) business in order to contain the spreading of COVID-19.

Other states went further and provided benefits in case the self-employed was facing a major loss due to the crisis, even though the business could continue to operate.

We discuss in how far temporary unemployment as a parallel to short-time work can be covered by an unemployment insurance for self-employed. Compared to the wage earners, there are two elements specific to the situation of the self-employed:

1. the difficulty to delineate the situation causing the loss of income: when does the business close down in case of temporary unemployment?
2. the question whether the self-employed in the end will face a loss of income and, if a loss of income is taking place, to what extent this is related to the fact that the business was temporarily closed down.

This explains why states in the end decided to go for a coverage through flat-rate benefit in the crisis as it was difficult to measure the exact loss of income for the self-employed person.

The idea for providing coverage for temporary unemployment for self-employed did not find its origin in the Corona crisis; we find other examples of this scheme long before COVID-19, as well as across different countries: loss of harvest due to extreme bad weather for farmers; loss of income suffered by fishermen and their personnel due to extreme weather conditions on (open) sea; loss of income suffered by company owners and their personnel due to closing of activities caused by external events of force majeure. COVID-19 however can be considered as a catalyser of the idea, generating the acceptance of the idea of a fully-fledged unemployment insurance for the self-employed across Europe and beyond.

However, there are some challenges to be addressed. Apart from the mentioned delineation issues, particularly, care must be taken to avoid that unemployment benefits are used routinely for normal fluctuations in the order situation. The benefit should not be used to supplement income in less profitable times. Consequently, conditions in relation to the drop in the business situation, to the delineation of the exogenous event (force majeure) that caused the drop (in essence of a 'temporary' nature) and to the presence of a real income loss, are needed. The following list may provide some guidance in this respect.

1. A certain minimum drop of income below the recent standard may be required.
2. A clear reason for the income drop would have to be provided. The applicant would have to show credibly that the drop was involuntary and inevitable in the short term.
3. It must be planned to resume the activity after a temporary drop, and realistic prospects must be demonstrated.
4. Benefits could be paid out only after the month with a certain delay once at least a drop in gross income can be proven.
5. An a posteriori check could ensure that benefit payments were legitimate.
6. Temporary unemployment or short-time work normally does not activate the normal condition on labour market availability; in a similar fashion, the self-employed is not expected to look for new business opportunities. However, if the exogenous event lasts for a longer time, one could think of alternative conditions regarding further training and active labour market policy measures.
7. Taking up side jobs during temporary unemployment may be restricted in the same way as for wage earners during short-time work.

As a bottom line, temporary unemployment benefits for self-employed would have to be designed with sufficient restrictions. This could enable to organise and equivalent to short-time work limited to handle exceptional events.

8 Conclusion

With the COVID-19 crisis as background, the underlying paper elaborates on setting up unemployment insurance for self-employed. Traditionally, insuring income risks of self-employed is often seen as contradicting the nature of taking risks. However, we argue that from several perspectives, unemployment insurance also beyond standard wage earners shows potential to contribute to a sustainable, productive and socially protected labour market development. To the same token it may prevent unnecessary reliance on social assistance schemes in case of unemployment, leaving the scheme to address more effectively the needs of persons in poverty. These advantages speak in favour of a comprehensive protection, while existing voluntary approaches regularly provide only fragmentary coverage. In this context, it is crucial to adapt rules appropriately addressing the specific needs of self-employed. Therefore, we discuss key rules and conditions with regard to self-employed and derive conclusions on how unemployment insurance for them should be designed.

When it comes to financing the unemployment scheme post-corona, we advocate an income related contribution levied on the running income of the self-employed person. Particularly, current net income could be pragmatically approximated from current revenues and baseline lump-sum deductions individualised by established tax returns and expected major changes. Fixed contributions that do not have much relation with the actual income are better to be avoided, especially as we propose to work with a mandatory insurance. We believe that an approach of an income related contribution serves better the equivalence that is typical for a work related social insurance and the nature of unemployment as a short-term risk. Moreover, it allows an approach to work with a minimum financing threshold, referring to the minimum income level from where contributions start to be paid. Instead of using the parameter of working hours that traditionally condition the access to the benefit, we are rather inclined to use as reference a minimum amount of contributions that have to be paid by the self-employed to open entitlement. This amount is preferably then to be defined in relation to the minimum financing threshold.

With regard to entitlement, due attention should go in defining the condition of closing down the business. Rather than focusing upon the involuntary character, the application rules should define very well the circumstances under which the stopping of business can give entitlement to unemployment benefits. Thus, we shift the focus from the involuntary character of unemployment to a detailed conditioning and monitoring of the closing down of the business: the outline of the situations that can or cannot justify the entitlement to unemployment become thus central.

Before the background of surging short-time work in the COVID-19 crisis, we also discuss in how far temporary unemployment as a parallel can be covered by an unemployment insurance for self-employed. Closing down of the business would not be given in the relevant situations. We argue that a short-time work parallel is possible to organise in order to handle exceptional events but would have to be designed with sufficient restrictions.

Since for self-employed income fluctuates more strongly and there is greater control over the own activity, special care needs to be taken to avoid false incentives. However, existing re-eligibility criteria – by excluding or limiting repeated claims – often severely impair the coverage. While this would miss a central goal of a broad mandatory unemployment insurance, as a less abrupt solution, a certain experience rating may be implemented. This would discourage an excessive repeated use of unemployment benefits while still providing continuous protection.

For receiving unemployment benefits, availability for the labour market is a standard criterion. We argue that while reasons of swift labour market integration speak in favour of including wage earner jobs also for self-employed, a productive matching of entrepreneurial persons into self-employment should be supported. Therefore, criteria should give leeway to self-employed activities as far as possible, but over time also guarantee an effective labour market integration.

Often, self-employed work involves multiple jobs and activities. In order to support social protection through various sources of income, to reach an appropriate level of social protection once risks materialise and to account for proceeding trends that persons combine increasingly a number of different jobs, all involved activities should be generally relevant both for benefit entitlement and contribution payment for an unemployment scheme. We argue that the latter should be organised in an integrated manner around activities, based on total work-related income. This leads to a concept of part-time unemployment. Here, both effective income stabilisation as well as appropriate incentives and sufficient practicability need to be combined. In this regard, we provide some guiding principles for in how far all activities are to be treated in an equivalent manner for opening entitlement, as well as for the monitoring of the labour market availability.

Some of the approaches e.g. regarding entitlement could in turn also inspire the existing unemployment schemes for wage earners. Unemployment scheme could hence move more towards a situational approach which in its basis is similar to all working categories (employees/self-employed) and consequently address better the basic ideas laying behind the recently launched EU Recommendation on access to social protection. The latter soft-law instrument gives additional contents to principle 12 of the European Social Pillar that calls for providing adequate access to social protection for all workers and self-employed. This should be done “regardless of the type and duration of their employment relationship [...]; access to benefits should also be provided to the self-employed, and this under comparable conditions”. By giving eventually this access to unemployment schemes, states will be about to rethink their existing schemes and have them organised in a more labour neutral manner, accompanying equally workers and self-employed.

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