



IZA

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## Social Protection Rights of Economically Dependent Self-employed Workers

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Economic and Monetary Affairs

**Employment and Social Affairs**

Environment, Public Health and Food Safety

Industry, Research and Energy

Internal Market and Consumer Protection

# Social protection rights of economically dependent self-employed workers

STUDY

Social protection rights of economically dependent self-employed workers





**DIRECTORATE GENERAL FOR INTERNAL POLICIES**  
**POLICY DEPARTMENT A: EMPLOYMENT POLICY**

# **Social protection rights of economically dependent self-employed workers**

**STUDY**

## **Abstract**

The study analyses the role of economically dependent self-employed workers in the labour market by taking institutional factors into account, such as labour law and social protection rights. In addition to setting out the reasons for the increase of dependent self-employed workers, the authors provide case studies across various sectors of selected EU Member States. While the phenomenon of dependent self-employment is highly diverse across EU Member States, it has become increasingly important and can be regarded as part of a general trend towards increasing labour market flexibilisation.

This document was requested by the European Parliament's Committee on Employment and Social Affairs.

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## LIST OF ABBREVIATIONS

<b>AGRI</b>	Committee on Agriculture and Rural Development
<b>APCMA</b>	Assemblée permanente des chambres de métiers et de l'artisanat
<b>BHPS</b>	British Household Panel Survey
<b>EIRO</b>	European Industrial Relations Observatory
<b>Eurofound</b>	European Foundation for the Improvement of Living and Working Conditions
<b>ELFS</b>	European Labour Force Survey
<b>ESA</b>	Employment and Support Allowance
<b>HMRC</b>	HM Revenue & Customs
<b>ILO</b>	International Labour Organization
<b>INPS</b>	Italian National Social Security Institute
<b>ISSP</b>	International Social Survey Programme
<b>NHS</b>	National Health Service
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>PAYG</b>	pay-as-you-go
<b>R&amp;D</b>	research and development
<b>RSI</b>	Social Security Regime for Self-Employed Workers
<b>SSP</b>	Statutory Sick Pay
<b>VAT</b>	value added tax

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## EXECUTIVE SUMMARY

This study analyses the degree to which social protection rights are granted in new forms of employment, particularly regarding the case of economically dependent self-employed workers in the European Union. Accordingly, the study first introduces recent trends of labour flexibilisation and its socio-economic consequences, while focusing on the latest developments in self-employment and dependent self-employment. Furthermore, institutional factors determining the concrete embodiment of dependent self-employment in the Member States of the EU are described, especially regulations concerning labour law and social protection rights. In section 3, the motives for engaging in dependent self-employment are presented from both the employer and employee's perspective, with case studies used to study the developments of dependent self-employment in different countries and sectors in greater depth. Important findings concerning the quality of the jobs of dependent self-employed workers and socio-economic consequences of dependent self-employment are summarised in section 5, before the study concludes with six key policy recommendations.

### *What is dependent self-employment and where does it occur?*

Dependent self-employment can be regarded as part of a general trend towards increasing labour market flexibilisation. Owing to structural change, technological and demographical changes as well as changes in lifestyle, including the transformation of family structures, non-traditional working arrangements such as dependent self-employment or part-time work have become increasingly important. Dependent self-employment is defined as a working relationship where the worker is formally self-employed yet under conditions of work similar to those of dependent employees. According to the findings of this study, self-employment mainly occurs in construction, transport, insurance and accounting, business services, architecture and the creative sector.

When regarding the labour market as a whole, it appears that a more restricted national labour market in terms of regulation concerning dismissal protection or temporary contracts as well as high non-wage labour costs leads to a more extensive use of dependent self-employment. Therefore, both the incidence and consequences of dependent self-employment depend on the national labour market's degree of flexibility. Dependent self-employment is mainly used in more flexible labour markets to increase the labour flexibility of low-qualified workers who hardly create additional jobs ("entrepreneurship out of necessity").

The development, concrete organisational design and prominence of genuine self-employment and dependent self-employment are highly diverse across EU Member States, with countries such as France reporting significant lower numbers in self-employment than Italy and Slovakia. In all countries, the creative sector accounts for a high and rising share of self-employed workers, while different images appear in other sectors: for instance, self-employment has risen in the construction industry in Slovakia, Austria and Germany, yet remains rather stable in France.

### *Social and socio-economic consequences of dependent self-employment*

The social rights of dependent self-employed are sometimes regulated through a legal hybrid category between genuine self-employment and 'standard' dependent employment. If such a legal hybrid category does not exist, their social protection rights are either similar to those of genuine self-employed or can be derived from universal benefits for all inhabitants. However, in case of the institution of hybrid categories, certain social rights for

employees are extended to the dependent self-employed. In countries such as Austria, Italy and Germany, such hybrid legal categories exist to guarantee some labour rights to dependent self-employed. In other countries, including France, special regulations for subgroups such as journalists or moviemakers are in place. Moreover, criteria for recognising dependent self-employment vary across countries. In Germany, the existence of a personal dependency on the employee's side is decisive, while in many other countries present subordination represents the key factor.

The non-recognition of dependent self-employment by labour law often entails a non-representation of dependent self-employed in collective bargaining institutions, or in cases such as Austria, they are even counted on the 'other side' of the labour market, with their official status automatically leading to membership in an employer's association.

The rise of migrant self-employed workers also adds to this phenomenon, as they are not always aware of their options in representation and are thus less likely to report abuses that lead to or originate from dependent self-employment to employer federations or trade unions.

### ***Working conditions are not always precarious***

Concerning the working conditions of dependent self-employed, it can be stated that the actual situation of dependent self-employed workers varies enormously. In the insurance or accountancy sectors, dependent self-employment is an existing issue, yet is less harmful and more accepted by workers than in the transport and construction sectors, where dependent self-employment often places workers in a precarious situation. The creative sector is the most diverse in itself, featuring a wide range of freelancers, where dependency is consequently often difficult to establish.

The working conditions under which the dependent self-employed operate are not easily separated from those of dependent employees. Despite dependent self-employed workers being more easy targets of abuses in working hours and facing greater difficulties in organising their task schedule, this is not necessarily the case, as shown by the insurance sector. Dependent self-employment is often used to lower social insurance contributions, although this must not automatically lead to a undermining in labour law. However, it is important to note that labour law does not apply in many cases when the contract partners work together based on a private contract rather than labour contract.

### ***Wages of dependent self-employed vary, risk lies in old age poverty***

The wages gained by the dependent self-employed vary considerably, but mostly, they do not earn more than their dependently employed counterparts. In some cases, a long chain of subcontracting such as in the construction sector leads to lower wages, while in other sectors or even companies the wage differences are small to non-existent. Moreover, they face higher economic risks without having a real opportunity to benefit from the status of self-employment, particularly in sectors such as construction or logistics. However, in cases such as successful freelancers in the creative sector, they can be better off than dependent employees.

The lower cost of both employer and employee social contributions enables companies to pay a higher net wage directly while still lowering their costs. However, it is even more difficult to establish the long-term consequences of switching from dependent employment to dependent self-employment. It is doubtful that most dependent self-employed workers sufficiently improve their income over time and save enough to compensate for insufficient public pension entitlements.

### ***Dependent self-employment is sometimes better than individual alternatives***

From an individual perspective, dependent self-employment may represent a better solution than being unemployed or in irregular employment. Particularly in creative occupations, perceived job satisfaction can occur despite a precarious status and/or low or unstable income. Moreover, a regular dependent employment relationship may not be a realistic benchmark. Rather, self-employment can be a form of entry point into the labour market. However, in labour market segments with strong price competition and a large share of dependent self-employment, status mobility is certainly limited. Stable deployment as dependent self-employed may be better than unstable or risky self-employment, yet it can simply mean persistence of a relatively unattractive labour market status with limited prospects of mobility to more secured forms of (dependent) employment. It should also be considered that the socio-economic consequences of self-employment might vary in accordance with the household composition of the dependent self-employed, and particularly the presence of a spouse or other household members with an own income (household versus individualistic approach).

### ***Dependent self-employment - a diverse phenomenon***

This study shows that dependent self-employment is a rather diverse phenomenon that requires careful analysis, with the need to establish better definitions regarding types of employment relationships. While dependent self-employment is often used to circumvent core elements of labour law and social protection provisions, adopting an overly restrictive approach risks creating additional barriers to labour market integration and cross-country mobility within the EU. Two core priorities rank high on the policy agenda:

#### **1. Establishing clear criteria for dependent self-employment**

There is a strong need for clear criteria regarding the definition of dependent employment, self-employment and (different forms of) dependent self-employment. The creation and clear definition of intermediate categories is a potentially promising means of establishing an operational labour market status. However, most important is the actual application and enforcement of these criteria by responsible monitoring bodies such as inspection services on social security contributions. In particular, this would concern main employers rather than the dependent self-employed, who often find themselves in an economically weak and consequently vulnerable legal situation.

#### **2. Making social security coverage less dependent on the employment status**

Non-wage labour costs for employers including labour taxes and social security charges form a major factor for employers to opt for dependent self-employment. Higher payroll taxes and individual social security contributions offer the same incentives to individuals. Making social security coverage less dependent on the employment status or type of economic activity can help to avoid labour market distortions by narrowing the gap in non-wage labour costs between dependent and self-employment. This would particularly entail reforms concerning the social security coverage of (dependent) self-employed.

## ***Six key policy recommendations***

### **1. Better data**

Given that the empirical evidence is not yet fully clear, and the lacking reliable information on the frequency and working conditions of dependent self-employed, we propose including questions concerning dependent self-employment in the European Labour Force Survey. This would allow a finer grained assessment of the situation and a better-tailored policy approach.

### **2. Better operational definitions**

An overly restrictive approach to (dependent) self-employment may create additional barriers to labour market integration and cross-country mobility within the EU, which may be detrimental to the working and living conditions of potential workers. Start-ups should not be discouraged by strict regulation. However, at the same time, self-employment that is used to undermine labour and social security laws should be contained. EU Member States should be required to take the reality of dependent self-employment into account, establishing better definitions regarding work statuses with clear rules of labour law and social security contribution.

### **3. Providing more universal social protection**

Furthermore, it is fully consistent with the ambition of the European social model to provide more universal and appropriate social protection for all, notwithstanding different formal types of employment. This implies also extending social protection, and particularly social insurance, to (dependent) self-employed or particular target groups or the creation of specific social security regimes for (dependent) self-employed workers. Existing national institutions and preferences have to be taken into account, as they have a strong influence on the functioning of labour markets. It is certainly not straightforward to promote a uniform European system, but rather to establish some general principles and guidelines that have to be implemented within the national or sectoral context.

### **4. Better cooperation regarding migrant workers**

At least in some sectors, dependent self-employment is an issue of migrant labour from within or beyond the EU, and there is irregular employment of migrants involved. Thus, better cooperation with respect to the trans-border assessment of the employment status of mobile workers is required, particularly to establish the chains of command between different actors (subcontractors) and the liability for social protection and taxes.

### **5. A sectoral approach and social dialogue**

There is remarkable diversity of both the regulation and the relevance of dependent self-employment across EU Member States as well as between sectors. Furthermore, one has to take into account the prominence of transnational contracting in some sectors such as construction or logistics. Under these conditions, a sectoral approach appears most preferable at the European level. Given the fact that rules in this segment of the labour market have to be accepted and implemented in practice, this calls for the involvement of the social partners using the established rules of European social dialogue. The European social partners can be asked to study the issue and to find practical solutions to the issue of dependent self-employment, particularly in those sectors where trans-border activities play an important role. This can be encouraged by the European Commission and the European Parliament.

A negotiated approach can also improve the acceptance of and compliance with regulatory solutions, essential for the actual design of employment relationships in particular sectors. A negotiated approach should particularly refer to the definition of dependent self-employment, operational implementation and compliance mechanisms.

#### **6. Calling for general principles of social protection**

Accordingly, the role of the European Parliament is to call for a careful monitoring of the socio-economic situation with particular reference to the prominence of dependent self-employment in some countries and sectors, questioning basic employee protection rights and social security provision as well as basic features of the European social model. Moreover, the European Parliament, along with the European Commission, can call the European social partners to address the issue and enter into negotiations on general principles of dependent self-employment. It should also call for general principles of social protection of (dependent) self-employed in all EU Member States while respecting national diversity.

# 1. THE BLURRING BOUNDARIES BETWEEN EMPLOYMENT AND SELF-EMPLOYMENT

## KEY FINDINGS

- While non-standard or atypical work forms are not necessarily precarious, research shows that they often tend to be.
- The reasons for increasing labour flexibilisation are manifold, with structural change, technological and demographical changes, migration, changes of lifestyles and the transformation of traditional family structures playing an important influence.
- Part-time and temporary work has been further increasing since 2000. However, temporary work has been decreasing in some countries, albeit only weakly.
- Labour market and organisational changes, unemployment, individuals' wealth, family background, immigration and the tax system are pivotal in influencing the development of self-employment.
- While the development of self-employment is very diverse across the Member States, the share of self-employed persons without employees exceeds the share of those with employees in all cases.
- Dependent self-employment describes work relationships where the worker is formally self-employed, yet the conditions of work are similar to those of employees. These work relationships are not based on employment contracts but rather on private contracts between a self-employed worker and a specific firm.
- There is little data on dependent self-employment, with research showing that it is mainly found in the following sectors: construction, transport, insurance, business services, architecture, and the creative industry.

The following chapter clarifies the terms used in the debate of labour flexibility, discussing the recent trends of labour flexibilisation and its social consequences, and presenting recent data concerning flexible forms of work. In a second step, this chapter analyses the determinants of self-employment and its empirical trends. Finally, we explain and discuss dependent self-employment and show the scarce empirical evidence of this form of work.

### 1.1. Clarification of terms used in the debate of labour flexibility

**Non-standard (or atypical) work** refers to work relationships beyond full-time and permanent employment with full social insurance coverage. The term usually includes part-time work, marginal work, temporary work, agency work and dependent forms of self-employment. While non-standard (or atypical) work is often labelled as precarious work, precarious work is not a synonym for atypical or non-standard work. Despite atypical work not being precarious by definition, most research suggests that it tends to be. In many cases, non-standard work means less security, training and stability, and lower wages. Non-standard work forms such as marginal, temporary and agency work, dependent self-employment and – in many cases – part-time work all exhibit clear features of precariousness.

The term **precarious work** refers to employment that involves instability, a lack of labour protection, insecurity, and social and economic vulnerability. In a somewhat old, yet still very useful definition, Rodgers (1989) explains precarious work along four dimensions: (i) the degree of certainty of continuing employment; (ii) the degree of control over working conditions, wages and the pace of work; (iii) the degree of labour protection (e.g. against discrimination, unfair dismissal, unacceptable working conditions, social protection); and (iv) the income level. Thus, the term precarious work is not a clear-cut expression, but includes work relationships that show precariousness in various dimensions and degrees.

The expression “**working poor**” obviously refers to only one dimension of the above definition – i.e. the income level. However, a low-income level often corresponds with high work fluctuations and a low degree of labour protection. The term working poor is mostly used in the flexibility debate to describe that increasingly more work relationships do not guarantee a sufficient income level. While this is largely due to the rise in part-time employment, it also relates to decreasing real income of low-skilled jobs.

## 1.2. Recent trends of labour flexibilisation and its socio-economic consequences

**Recent labour market developments in the EU** have been characterised by structural change, technological and demographical changes, migration, changes of life styles as well as the transformation of traditional family structures. While new jobs are created in expanding economic sectors (e.g. personal services, environmental technology), those in traditional, uncompetitive sectors get lost (mainly low-skilled manual jobs). In addition to traditional working structures, new models to combine work, leisure, family, care and (further) education are being brought to the forefront.

On the side of employers, new production processes have increased the pressure for a more flexible organisation to be able to respond quickly to demand fluctuations and reduce the cost of labour, while avoiding the need to pay benefits and employment taxes (Muehlberger and Pasqua 2009). In some European countries, the rise of new forms of work has also been explained as a response to strict labour market regulations, which make it more difficult to fire workers with permanent contracts. In addition, new forms of work have also been introduced as an instrument to reduce youth unemployment, possibly offering a stepping-stone to permanent jobs (Booth et al. 2002). Thus, there are manifold developments behind the **increasing flexibilisation of labour markets**. Although increased competition in foreign trade and trade with third countries are important developments that have also altered the functioning of labour markets, these developments are largely explained by structural change and the development of new business models. Labour flexibilisation with lower levels of worker protection does not only occur in sectors that strongly face increased competition of third countries, but also, and perhaps even more, in the service industry and in sectors that do not participate in the world market. Interestingly, data on the recent development of labour flexibilisation and self-employment does not suggest that the financial crisis had an impact here.

In sum, the organisation of work has changed considerably over the last two decades, with **new forms of work having gained in importance**. Traditional, long-term and full-time employment relationships with high social and labour market protection are losing ground, while part-time employment, temporary work, agency work and dependent forms of self-employment are increasingly common.

In many cases, new forms of work mean less security, less training, precariousness and lower wages (Muehlberger and Pasqua 2009; Booth et al. 2002). There are two opposing views of the **role of new forms of work in modern labour markets** (Kunda et al.

2002). On the one side, some authors argue that new forms of work are mainly used for low-skilled workers, creating a secondary labour market with less stability and lower wages. New forms of work have also been used to reduce the power of unions. On the other hand, it is also argued that some of these work forms may represent a voluntary choice of highly skilled workers to be more autonomous, in order to enhance their professional skills and better manage their work–life balance. Therefore, it is important to understand who these workers are because these two views have different implications for welfare and labour market policies (Muehlberger and Pasqua 2009; Muehlberger 2007a).

Tests regarding the **stepping-stone hypothesis** (i.e. whether new forms of work are a vehicle to better and more stable jobs) show various results. For the United Kingdom, Booth et al. (2002) show that workers who started their careers in temporary jobs suffer a permanent wage penalty. Results for Spain highlight that the probability of obtaining a permanent contract decreases after having previously held several non-standard contracts (Amuendo-Dorantes 2000), and similar results have been found for Italy (Gagliarducci 2005). In Germany and Italy, the negative effects on the subsequent career are also due to the higher risks of unemployment in the later career of those who worked based on previous temporary contracts (Scherer 2004).

Research shows that own-account workers tend to suffer more social and health risks than their counterparts who are self-employed yet engage at least one employee. **Social and health risks are mainly expressions of economic circumstances.** Low income harms the possibility of insuring against sickness, unemployment or old age. Typical risks of own-account workers are insufficient social insurance and pension entitlements. Risks are additionally fostered by psychological strain, resulting from job and income instability, time pressure, pressure to perform, or a problematic work-life balance (Gerner and Wießner 2012). In principle, flexible forms of work lead to social problems if income and/or labour protection are low and integration in social insurance systems is not provided (Keller and Seifert 2011). While research on the **relationship between health and flexible forms of work** shows no clear evidence, it seems that health strongly depends on the precise contract design and individual characteristics (Artazcoz et al. 2005). However, there is evidence that temporary agency workers suffer higher levels of depressive illness and consume more alcohol and nicotine. Agency workers have more days of absence (14.7) than their regularly employed counterparts (10.7) (Keller, 2011). However, on the other hand, full-time employed persons suffer worse perceived health than part-time employed workers (Benach et al. 2004).

Finally, **flexible forms of work may have an effect on fertility rates;** however, the empirical evidence is mixed. For Spain, Artazcoz et al. (2005) and González and Jurado-Guerrero (2006) provided evidence that the uncertainty stemming from temporary employment harms relationships and defers becoming parents. For Italy, France and Germany, Golsch (2005) and González and Jurado-Guerrero (2006) do not find an influence of temporary work on fertility decisions. Bernardi et al. (2007) find a strong effect of working contract conditions on employed women's childbearing intentions. A permanent labour contract is positively correlated with the intention of having a child, while being a precarious worker has a negative effect. Both indicators show the need of women to feel stable in their own job before entering motherhood.

Considering 13 European countries, Adsera (2003) finds that women in part-time positions transit faster to second and third births than those in full-time positions. Results indicate that in countries where part-time positions are more readily available, transitions should be faster on average. However, despite Ariza et al. (2005) confirming these results for Belgium, Germany, Ireland, Italy and the Netherlands, they stress that the availability of a part-time schedule does not have an effect on fertility in Denmark, France, Greece,

Portugal, Spain and the UK. For Germany, Düntgen and Diewald (2008) find that self-employed workers have a lower probability of fatherhood, which can be explained by a high workload and rather instable income conditions. Adsera (2003) looks at 13 European countries and stresses the positive and significant effect of a self-employed spouse on fertility. On the one hand, earnings of self-employed individuals are lower than those of the total working population on average. On the other hand, more widespread earnings underreporting and the flexibility of schedules may constitute an asset.

### 1.3. Empirical developments of flexible forms of work

Data shows that **both part-time employment and temporary work have been further increasing in Europe over the last decade.**<sup>1</sup> In 2011, 18.8 per cent of all employees in the EU27 were working on a part-time basis (2000: 15.5 per cent) and 14.0 per cent were employed on a temporary contract (2000: 12.4 per cent).

**Table 1: Part-time employed persons in percentage of employment and temporary employees in percentage of employees (15-64 years), 2000-2011 percentage change**

Country	Part-time employed persons		Change in percentage points	Temporary employees		Change in percentage points
	2000	2011	2000-2011	2000	2011	2000-2011
EU-27	15.5	18.8	3.3	12.4	14.0	1.6
Belgium	17.4	24.7	7.3	9.0	8.9	-0.1
Bulgaria	3.0	2.2	-0.9	6.1	4.1	-2.1
Czech Republic	4.7	4.7	0.0	7.2	8.0	0.8
Denmark	21.4	25.1	3.8	10.2	8.9	-1.3
Germany	19.1	25.7	6.7	12.7	14.7	2.1
Estonia	6.3	9.3	3.0	2.3	4.5	2.2
Ireland	16.6	22.9	6.4	5.3	9.8	4.5
Greece	4.4	6.6	2.2	13.8	11.6	-2.2
Spain	8.0	13.7	5.8	32.4	25.4	-7.0
France	16.8	17.6	0.8	15.4	15.2	-0.2
Italy	8.7	15.2	6.5	10.1	13.4	3.2
Cyprus	7.6	8.7	1.1	10.7	13.7	3.0
Latvia	10.5	8.8	-1.7	6.7	6.5	-0.2

<sup>1</sup> For a discussion on agency work, we refer to our study "The role and activities of employment agencies" (forthcoming)

Country	Part-time employed persons		Change in percentage points	Temporary employees		Change in percentage points
	2000	2011		2000-2011	2000	
Lithuania	8.9	8.2	-0.7	3.7	2.8	-0.8
Luxembourg	11.2	18.0	6.8	3.4	7.1	3.7
Hungary	3.0	6.4	3.4	6.8	8.9	2.1
Malta	6.0	12.4	6.3	3.9	6.5	2.6
Netherlands	41.0	48.5	7.5	13.6	18.1	4.5
Austria	16.7	24.3	7.6	8.0	9.6	1.6
Poland	9.3	7.3	-2.0	5.6	26.9	21.3
Portugal	8.1	10.1	2.1	19.8	22.2	2.4
Romania	14.0	9.3	-4.6	2.9	1.5	-1.4
Slovenia	5.3	9.5	4.1	12.8	17.9	5.2
Slovakia	1.7	3.9	2.3	4.0	6.5	2.5
Finland	11.8	14.1	2.2	17.6	15.5	-2.1
Sweden	21.3	24.7	3.4	14.3	15.9	1.7
United Kingdom	24.3	25.5	1.1	6.6	6.0	-0.6

**Source:** Eurostat (ifsa\_epgaed, ifsa\_etgaed, ifsa\_egaps). Column Part-time employed persons and temporary employees (2000): Bulgaria 2001.

## 1.4. Recent trends of self-employment

### 1.4.1 The determinants of self-employment

**The rise of self-employment is closely linked to the general restructuring process in industrial organisation, observed since the 1970s.** Research on the determinants of self-employment suggests that the greater stress on outsourcing and numerical flexibility provides an important explanation for the rise of self-employment (e.g. EIRO 2002; OECD 2000; Meager 1998). Moreover, these developments have been intensified by governmental efforts to foster self-employment using various regulatory tools such as the tax system or supported direct credits. Both economists and sociologists have argued that new technologies and more specialised and variable patterns of consumer demand have influenced the re-emergence of small-scale businesses and network forms of production (e.g. Semlinger 1991; Powell 1990).

Theoretical and empirical research on the determinants of self-employment shows that factors such as labour market and organizational changes, unemployment, the wealth of individuals, family background, immigration and the tax system are pivotal in influencing the development of self-employment. Although much research has been conducted on the business ventures of unemployed individuals, **there is little consensus concerning the effects of unemployment on self-employment levels.**

On the one hand, the “**unemployment push theory**” argues that high unemployment is connected to the absence of opportunities for paid employment, provoking many individuals to move into self-employment in order to avoid or escape unemployment (Acs et al. 1994; Bögenhold and Staber 1991). Comparing three different datasets in the United Kingdom, Smeaton (2003) argues that recent organisational restructuring has resulted in an increase particularly of older self-employed workers who are pushed into self-employment due to a lack of other work opportunities. Nevertheless, these workers report high levels of work satisfaction owing to the autonomy brought by self-employment despite self-exploitation in the form of long working hours. On the other hand, the “**prosperity pull theory**” stresses that individuals tend to become self-employed when unemployment is low, given that the chances for return to wage labour are higher (Taylor 1996). Meager (1992) argues that successful business start-ups and business survival are more likely at times of economic expansion, when unemployment is typically low. Analysing 23 Organisation for Economic Co-operation and Development (OECD) countries, Thurik et al. (2005) find both effects at work, indicating particularly strong evidence for the argument that higher rates of unemployment prompt increased entrepreneurial activity, reducing unemployment in subsequent periods.

**Several studies highlight a lack of capital as one possible barrier to becoming self-employed.** Using US micro data, Evans and Jovanovic (1989) and Evans and Leighton (1989) analyse the liquidity constraints of self-employed individuals, finding that wealthier people are more likely to switch from employment to self-employment. Blanchflower and Oswald (1998) find similar results analysing UK micro data, namely that the probability of self-employment positively correlates with an individual having received an inheritance or gift. Taylor’s (1996) analysis of the British Household Panel Survey (BHPS) highlights both **marital status and parent’s employment status as significant determinants of self-employment**, with data indicating that self-employed individuals are more likely to be married and have parents (especially fathers) who are or were self-employed themselves. While marital status seems to have an influence on the likelihood of being self-employed, the number of children has an ambiguous effect. Blanchflower (2000) finds no empirical

evidence for the widespread assumption that the number of children has a significant influence on the likelihood of self-employment. Indeed, he finds either no significant effect (e.g. in Denmark, the Netherlands, Spain and the United States) or a negative influence (e.g. in France, Germany, Greece and Italy). Canada and the United Kingdom are exceptions, where a positive correlation is found between the number of children in a family and self-employment. **Self-employment among ethnic minorities**, and particularly immigrants, has been addressed using US and UK data. For example, Fairlie and Meyer (1996) analyse data of the US census and find the **level of education and time since immigration to be important determinants of self-employment**. More specifically, data shows that higher levels of education are associated with a higher probability of self-employment: the longer the period since immigration, the higher the chances of being self-employed. Interestingly, Fairlie and Meyer (1996) find that those groups with high self-employment rates do not come from countries with high self-employment rates.

Furthermore, it is argued that an ethnic group's average self-employment earnings, relative to average wage earning, seems to be pivotal in determining the self-employment rate of that ethnic group. From their empirical analysis, the authors conclude that while discrimination and language difficulties may be important for some groups, they do not necessarily lead to self-employment. Rather, the high relative returns from self-employment for many ethnic groups make this a preferable choice. Clarke and Drinkwater (2000) find similar results for the United Kingdom, reporting the difference between an individual's predicted return from paid employment and self-employment as an important predictor for self-employment. The authors suggest, **"the existence of discriminatory wages in the paid-employment sector may push minorities into entrepreneurship"** (p. 626). Similarly to Fairlie and Meyer (1996) for the United States, Clarke and Drinkwater (2000) reveal that those with poor English language skills and more recent immigrants are less likely to be self-employed in the United Kingdom.

However, economic trends and individual characteristics or preferences are insufficient in explaining the international differences in self-employment rates. Consequently, it is necessary to consider the **legal and institutional environment**, which may be pivotal for understanding trends in self-employment. For instance, Robson (1998) explains the strong increase in self-employment in the United Kingdom during the 1980s through supply-side policy measures such as the reduced rate of income tax, which led to an "entrepreneurial renaissance". In a Canadian-US comparison, Schuetze (2000) analyses the effect of tax changes on male self-employment, finding that increases in income taxes have strong positive effects on the self-employment level. These results suggest that rather than unemployment rates, changes in the tax environment explain the trends in male non-primary sector self-employment in Canada and the United States to a considerable degree. In other words, Schuetze (2000) provides evidence for one of the motivations for becoming self-employed being the relative tax advantage. Thus, as already found in earlier research (e.g. Evans and Leighton 1989; Blau 1987), the **tax environment is a strong predictor of self-employment**. International survey data indicates that **a large share of working individuals would prefer to be self-employed**. As reported in Blanchflower (2000), the International Social Survey Programme (ISSP) of 1989 asked random samples of individuals from 11 countries whether they would prefer being an employee or self-employed. Interestingly, a substantial part of all respondents, as well as of those respondents who were employees, reported to prefer self-employment. For instance, in the United Kingdom, 48 per cent of all respondents and 43 per cent of those who were working as an employee said that they would prefer self-employment.

Similar results were found in the 1998 survey "Employment Options of the Future" of the European Foundation for the Improvement of Living and Working Conditions (Eurofound),

which focused – among other issues – on attitudes towards self-employment in Norway and – at that time – 15 EU Member States (Atkinson 2000). The survey suggested that around 20 per cent of those employed when surveyed would prefer self-employment. Moreover, great differences were found in attitudes towards self-employment between men and women, with the former more likely to report that they would like to become self-employed. This high theoretical potential for self-employment indicates that there are some highly effective barriers hindering individuals from following their apparent desire to run their own business, including credit market constraints or labour market regulation. Comparing 11 OECD countries, Arum and Müller (2004: 432) find that **labour market regulation had strong effects on the level of self-employment**. It is shown particularly for individuals in professional-managerial occupations that both low and high levels of labour market regulation create stronger incentives to become self-employed. In countries with a low level of labour market regulation, it is usually less costly and administratively easier to set up a business and hire employees, while employees in countries with a high level of labour market regulation are pushed into self-employment to contract their labour based upon a business contract rather than a labour contract and/or employees voluntarily opt for self-employment to circumvent labour market regulations that reduces their flexibility. Arum et al. (2000) analyse US data between 1980 and 1992, finding that increased labour market regulation<sup>2</sup> has encouraged the increase in self-employment, with its growth (especially in male professional occupations) particularly concentrated in areas with increased labour market regulation. The argument suggests that increased labour market regulation restricts the control of labour, thus increasing the incentives to rely on outside contracting. According to this perspective, the adaptation of flexible productions strategies is also due to increasing labour market regulation. The creation of self-employment has been supported by a large number of European and national policies and programmes (for an overview, see the European Employment Observatory Review 2010). In this context, **policy makers face the difficulty of promoting “real”, entrepreneurial self-employment whilst simultaneously containing dependent self-employment**. The European Employment Observatory Review (2010) has analysed recent national strategies to encourage self-employment, evaluating their level of success. Based upon a small number of reports of national experts, it is argued that policies to encourage self-employment tend to be successful. However, a coherent analysis would involve evaluating the different programmes, contrasting the costs and benefits. Caliendo et al. (2010) analyse the long-term effects of supporting self-employment for the unemployed in Germany (Ich-AG; Existenzgründungszuschuss), finding that 50 to 60% of those who initially received the subsidy remain in business five years after starting promoted self-employment. They also show higher employment participation rates than a comparable control group, indicating improvements in terms of reintegration into the labour market. In a more recent study, Caliendo et al. (2012) again find high continuation rates for promoted self-employed and only relatively low deadweight effects. For Austria, Lutz et al. (2005) find that unemployed persons who participate in a supported self-employment programme (“Unternehmensgründungsprogramm”) show higher self-employment rates after 3.5 years than those who do not receive such support. Even after controlling for differences in observable characteristics between participants and non-participants, they find that participants are significantly better integrated into the labour market after participating in the programme.

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<sup>2</sup> Labour market regulation here subsumes the existence or absence of legislation concerning, inter alia, fair employment, minimum wages, right-to work.

### 1.4.2 Recent empirical trends of self-employment

In the European Labour Force Survey (ELFS), self-employed persons are defined as follows:

“Self-employed persons work in their own business, farm or professional practice. A self-employed person is considered to be working during the reference week if she/he meets one of the following criteria: works for the purpose of earning profit; spends time on the operation of a business; or is currently establishing a business. A self-employed person is the sole or joint owner of the unincorporated enterprise (one that has not been incorporated, i.e. formed into a legal corporation) in which he/she works, unless they are also in paid employment which is their main activity (in that case, they are considered to be employees).”

Self-employed people also include:

- unpaid family workers;
- outworkers (working outside the usual workplace, such as at home);
- workers engaged in production conducted entirely for their own final use or own capital formation, either individually or collectively.” (Eurostat Glossary: Self-employment)

In 2011, 15.8 per cent of persons in employment were self-employed (including helping family workers), although the ELFS shows that the self-employment rate is rather diverse across Europe. In 2011, Estonia had the lowest rate of self-employment (8.0 per cent), while Greece had the highest rate with 35.6 per cent (see Table 2). However, the data also shows that the share of self-employed persons without employees exceeds the share of self-employed persons with employees in all Member States.

**Table 2: Workers who are “not employees” in the European Union in per cent of employment (15-64 years), 2011**

Country	Self-employed with employees <sup>1)</sup>	Own-account workers <sup>2)</sup>	Helping family workers	Total
EU-27	4.2	10.2	1.4	15.8
Austria	4.8	6.6	1.4	12.7
Belgium	4.1	8.7	1.0	13.8
Bulgaria	3.6	7.3	1.0	11.9
Cyprus	4.5	10.6	1.3	16.4
Czech Republic	3.5	13.7	0.5	17.7
Denmark	3.6	4.8	0.2	8.6
Estonia	3.9	4.2	n.a.	8.0
Finland	4.0	8.2	0.3	12.5

Country	Self-employed with employees <sup>1)</sup>	Own-account workers <sup>2)</sup>	Helping family workers	Total
France	4.4	6.5	0.5	11.3
Germany	4.5	6.0	0.4	10.9
Greece	7.6	22.8	5.2	35.6
Hungary	5.2	6.2	0.4	11.8
Ireland	4.7	10.3	0.5	15.6
Italy	6.3	16.2	1.5	24.0
Latvia	3.7	6.5	1.0	11.2
Lithuania	2.4	6.6	1.4	10.3
Luxembourg	2.6	5.1	0.6	8.3
Malta	4.1	8.9	n.a.	13.0
Netherlands	3.8	9.9	0.6	14.3
Poland	4.1	14.4	3.5	22.0
Portugal	5.0	11.6	0.6	17.1
Romania	1.2	16.7	11.9	29.8
Slovakia	3.5	12.3	0.1	15.9
Slovenia	3.6	8.3	3.3	15.2
Spain	5.0	10.4	0.7	16.2
Sweden	3.6	5.8	0.1	9.5
United Kingdom	2.4	10.7	0.3	13.3

**Source:** Eurostat, Ifsa\_egaps.

**Note:** <sup>1)</sup>Self-employed persons with employees (employers); <sup>2)</sup>self-employed persons without employees (own-account workers); n.a.: data not available; column "Helping family workers": Luxembourg 2009, Slovakia 2010.

Considering the development of self-employment over the last decade, a decrease is noted in many countries, with the exceptions of Austria, the Czech Republic, France, Germany, Luxembourg, the Netherlands, Slovenia, Slovakia, Sweden and the United Kingdom. In these countries, self-employment has risen, indeed quite strongly in some countries (see Table 3). While the number of self-employed persons with employees and the number of family workers has decreased in the European Union, the number of self-employed persons without employees (own-account workers) has increased over the last decade.

**Table 3: Workers who are “not employees” in the European Union (15-64 years), 2000-2011 percentage change**

Country	Self-employed with employees <sup>1)</sup>	Own-account workers <sup>2)</sup>	Family workers	Total
EU-27	-9.6	14.3	-43.3	-1.6
Austria	7.4	30.7	-35.9	9.4
Belgium	-0.4	4.1	-44.4	-3.4
Bulgaria	60.3	-35.1	-40.1	-21.3
Cyprus	-5.7	-3.5	-40.5	-8.6
Czech Republic	-11.8	40.4	-7.0	24.0
Denmark	-17.0	23.5	-77.9	-5.7
Estonia	32.6	-9.3	n.a.	n.a.
Finland	-2.8	2.0	-39.3	-1.2
France	14.1	25.7	-55.9	12.5
Germany	1.3	33.6	-33.1	14.1
Greece	-3.6	-2.8	-44.8	-12.7
Hungary	2.9	-34.2	-36.4	-21.9
Ireland	-11.9	1.7	-54.5	-6.5
Italy	-44.7	59.0	-56.2	-4.2
Latvia	-7.9	10.4	-72.3	-17.8
Lithuania	29.9	-54.2	-53.4	-46.1
Luxembourg	-46.7	132.7	62.5	12.2
Malta	25.5	31.0	n.a.	n.a.
Netherlands	25.4	52.8	-26.6	38.4
Poland	20.2	-10.2	-8.4	-5.4
Portugal	-22.5	-20.6	-73.9	-26.1
Romania	-9.3	-21.6	-46.0	-33.3
Slovakia	55.0	165.7	11.5	127.8
Slovenia	3.1	29.7	-10.9	11.8
Spain	6.5	0.0	-57.9	-4.2
Sweden	4.5	8.4	-50.4	5.2
United Kingdom	-19.1	34.8	-21.0	18.9

Source: Eurostat, ifsa\_egaps.

Note: <sup>1)</sup>Self-employed persons with employees (employers); <sup>2)</sup>self-employed persons without employees (own-account workers); n.a.: data not available; column “Family workers”: Luxembourg 2000-2009, Slovakia 2000-2010.

**The economic crisis has had a rather weak impact on the numbers of self-employed persons in most EU Member States**, with Table 4 presenting the change in the number of self-employed persons (excluding family workers) between 2007 and 2011. While the number of employees expanded weakly, the number of self-employed persons remained stable during the economic crisis.

**Table 4: Self-employed persons and employees in % of employment (15-64 years), 2007-2011 percentage change**

Country	Self-employed persons		Change in percentage points	Employees		Change in percentage points
	2007	2011	2007-2011	2007	2011	2007-2011
EU-27	14.4	14.4	0.0	83.9	84.2	0.2
Belgium	13.1	12.8	-0.3	85.6	86.2	0.6
Bulgaria	10.9	10.9	0.0	88.0	88.1	0.1
Czech Republic	15.4	17.2	1.8	84.0	82.3	-1.7
Denmark	8.0	8.4	0.3	91.5	91.4	-0.1
Germany	10.5	10.5	0.0	88.6	89.1	0.4
Estonia	8.7	8.0	-0.6	91.1	91.8	0.7
Ireland	15.4	15.1	-0.3	84.0	84.4	0.4
Greece	28.7	30.4	1.6	65.2	64.4	-0.8
Spain	16.3	15.5	-0.8	82.6	83.7	1.1
France	10.2	10.9	0.7	89.2	88.6	-0.6
Italy	23.4	22.5	-0.9	74.8	76.0	1.2
Cyprus	17.5	15.1	-2.3	81.2	83.6	2.4
Latvia	8.8	10.2	1.3	89.8	88.8	-1.0
Lithuania	11.7	8.9	-2.8	86.6	89.7	3.1
Luxembourg	7.0	7.7	0.7	92.8	91.8	-1.0
Hungary	11.8	11.4	-0.4	87.8	88.2	0.4

Country	Self-employed persons		Change in percentage points	Employees		Change in percentage points
	2007	2011		2007-2011	2007	
Malta	13.8	13.0	-0.7	86.2	87.0	0.7
Netherlands	12.0	13.7	1.7	87.5	85.7	-1.8
Austria	11.7	11.3	-0.4	86.7	87.3	0.6
Poland	18.7	18.5	-0.2	77.3	78.0	0.7
Portugal	19.0	16.5	-2.5	80.0	82.9	2.9
Romania	18.6	17.9	-0.7	69.8	70.2	0.4
Slovenia	10.0	11.9	1.9	86.3	84.8	-1.5
Slovakia	12.8	15.8	3.0	86.7	84.1	-2.6
Finland	11.5	12.2	0.7	88.1	87.5	-0.6
Sweden	9.6	9.4	-0.1	90.2	90.5	0.2
United Kingdom	12.6	13.1	0.5	87.0	86.4	-0.6

Source: Eurostat (Ifsa\_egaps).

### 1.5. What is dependent self-employment?

There are various definitions and terms of work in the grey zone between employment and self-employment. While the expression “economically dependent self-employment” largely refers to the economic dependence of the agent on the principal, the synonymously used expressions “dependent self-employment” additionally refer to the managerial control function of the principal and “false self-employment” to the illicit intent to circumvent labour law or social security standards. We consider that the term “dependent self-employment” most comprehensively describes the work relationships examined in this study. Dependent self-employment describes work relationships where the worker is formally self-employed yet the conditions of work are similar to those of employees. Despite working exclusively (or mainly) for a specific firm (i.e. the outsourcing firm, in the following: “the employer”), workers are neither clearly separated nor integrated with the firm they contract with. These work relationships are not based on employment contracts, but rather on private contracts between a self-employed worker and a specific firm.

**Example 1:** A truck driver who owns his (only) truck and runs a trucking company, but works only for one forwarding company. The latter determines the work schedule and the appearance of the trucks, etc. The self-employed truck driver bears the cost and risk of the functioning of the truck, only earns when s/he works (i.e. no paid holidays) and is responsible for social insurance contributions.

Empirical literature shows that these work relationships create both economic and personal dependence. **Economic dependence** fundamentally means that the worker takes (part of) the entrepreneurial risk.

Given that these workers have only one (main) employer, they generate the whole, or at least a substantial part, of their income from this work relationship. Thus, they do not appear on the external market and are restricted in their alternatives. If it is assumed that the two parties do not usually agree on a constant quantity of orders, but rather that the quantity of business transactions depends on the economic situation of the outsourcing firm, then the worker evidently takes the entrepreneurial risk. Additionally, in contrast to employees who are (mainly) remunerated with a fixed wage, workers in hierarchical forms of outsourcing earn a variable income depending on production, which means that they bear demand fluctuations. **Personal dependence** – or subordination – means that the outsourcing firm strongly determines working methods as well as the time, place and content of work (Muehlberger 2007b). **Dependent self-employment means that both organisational boundaries and the boundaries between employment and self-employment become blurred, resulting in the need to rethink labour and social security law.** Self-employed persons usually work for a large number of employers without placing themselves in hierarchical subordination to them. They bear the entrepreneurial risk yet also gain the entrepreneurial possibilities of self-employment. However, if the self-employed person works only (or mainly) for one employer in (partial) subordination, part of the entrepreneurial risk is transferred to the worker, while entrepreneurial possibilities are restricted. Accordingly, these work relationships are de facto very similar to employment relationships.

**Dependent self-employment received attention at the European level** with the Supiot report to the European Commission, which considers the boundaries of labour law (Supiot 2001). The report describes self-employed workers that are “economically dependent on a principal” (p. 3) and in “permanent legal subordination” (p. 6) to their principal, arguing that “those workers who cannot be regarded as employed persons, but are in a situation of economic dependence vis-à-vis a principal, should be able to benefit from the social rights to which this dependence entitles them” (p. 220). OECD (2000) claims that there has been an increase of jobs that “lie on the borders of wage and salary employment and self-employment”, particularly including contractors who work “in a dependent relationship with just one enterprise” and who have “little or no more autonomy than employees, even when classified as self-employed” (p. 162). Sciarra (2004) and Perulli (2003) emphasise the great difficulty in assessing dependent forms of self-employment, owing to its complexity and ambiguity. Both different levels of dependency and autonomy as well as heterogeneous circumstances of industries and professions are observed. However, despite comparative research in the Italian and UK insurance and business service industry as well as the Austrian trucking and business service industry (Muehlberger and Bertolini 2008; Muehlberger 2007a) having shown industrial and national regulations to play a crucial role in the emergence of dependent self-employment, **the organisational logic** – i.e. the introduction of hierarchical elements into business relationships – **proves to be similar across industries and countries.**

**Example 2:** Tied agents in the insurance industry are self-employed insurance agents selling insurance products of only one insurance company. They usually appear under the logo of the respective insurance company, although they are self-employed. They have a binding contract forbidding them to sell insurance products from other companies.

Considering the Austrian and UK insurance industry, Muehlberger (2007b) argues that **dependent forms of self-employment are close to employment relationships** for various reasons.

*First, the outsourcing firm strongly controls the labour process of the dependent self-employed worker*, not only setting the goals of the dependent self-employed worker's performance (e.g. through development of the business plan), but also closely monitoring the worker by both information technology and regular meetings with supervisors. As with employees, the outsourcing firm cancels the contract if the dependent self-employed worker under-performs for a certain period of time. Control is not only executed through hierarchical elements, but also through competition from other workers (employees or independent self-employed insurance agents) or performance-related payment (e.g. incentives to sell specific products). This way, **the dependent self-employed worker has a strong incentive to find a profitable balance between customer service quality and productivity.**

*Second, dependent self-employed workers are substantially integrated into the business of the outsourcing firm.* Despite operating from their own premises, they nevertheless work under the logo and name of the outsourcing firm, making it difficult for customers to realise that they deal with self-employed workers. The outsourcing firm successfully introduces hierarchical elements into the work relationship, placing the worker in partial subordination. However, unlike employees, in hierarchical forms of outsourcing **the dependent self-employed worker bears part of the entrepreneurial risk.** While employees have a fixed basic income, self-employed workers only earn when they produce or sell. Thus, demand fluctuations, the competitiveness of the outsourcing firm and events that prevent the worker from working (e.g. illness) represent risks that the worker has to take. Nevertheless, although various support measures (e.g. business know-how, accounting, information technology) aim at binding the worker closely to the outsourcing firm, they also help to counterbalance the effects of the risk transfer.

## 1.6. Evidence of dependent self-employment

Owing to a lack of sufficient survey data, there is little numerical data concerning dependent self-employment. For the **United Kingdom**, Burchell et al. (1999) find that 5 per cent of those in employment are individuals who contract to supply their own personal services to an employer without having a contract of employment yet are economically dependent on the employer's business to some degree given that they derive a substantial part of their income from this particular work. For **Germany**, Dietrich (1996) affirms that around 3 per cent of the labour force work in the grey zone between self-employment and employment. On the basis of Italian social security data, Berton et al. (2005) states that there were more than half a million "parasubordinati" (i.e. self-employed without employees working for one company) in **Italy** in 1999, representing 2.5 per cent of those in employment. In **Austria**, around 1.1 per cent of the labour force worked as self-employed for only one employer and were bound by the instructions of the employer or contract partner (in terms of labour time and methods) in 2001 (Statistik Austria 2002). Furthermore, and more importantly, these international surveys indicate a rapid growth of hierarchical forms of outsourcing (EIRO 2002). Qualitative empirical literature highlights that **dependent self-employment is mainly found in the following sectors:** construction, transport, insurance, business services, architecture, and creative industry. Despite these sectors exhibiting different characteristics, the deployment of dependent self-employed workers is quite similar across sectors: formally self-employed workers work for (only or mainly) one company, which strongly determines the content, place and time of work. Their work is very similar to the work of employees (including subordination), but they are hired on the basis of a private contracts rather than a labour contract, thus excluding them from the rules of labour law.

## 2. INSTITUTIONAL FACTORS: LABOUR LAW AND SOCIAL PROTECTION RIGHTS

### KEY FINDINGS

- In many countries, labour law does not recognise a specific category such as the dependent self-employed. Accordingly, most dependent self-employed are categorised as self-employed and thus cannot apply for the application of labour law as a dependent worker, and consequently particularly lack collective representation.
- In some countries, such as Italy, Austria and Germany, hybrid categories provide certain labour rights to the dependent self-employed.
- Various practises exist to recognise dependent self-employment in each country, with most using the criterion of subordination.
- In Austria, both personal and economic dependency is investigated in establishing dependency. Three hybrid categories exist, covering a part, yet not all, dependent self-employed.
- In Denmark, while labour law sometimes award rights to dependent self-employed, they are often classified as self-employed. The intensive use of collective bargaining often places the dependent self-employed outside of the scope.
- In France, workers under a labour contract should be automatically reclassified as employees. No specific category exists for the dependent self-employed, yet certain vulnerable groups such as moviemakers and journalists are automatically classified as employees.
- In Germany, a legal definition for self-employment does not exist. The difference between self-employment as independent work and dependent employment has been established in court by case law, and can be determined by assessing the employment relationship according to five criteria.
- In Italy, self-employed can be determined as dependent if certain conditions apply, with special categories created for dependent self-employed work: Cococo and Cocopro. Moreover, special provisions have been made for occasional collaborators.
- In Slovakia, dependent self-employment is not recognised by labour law, and its closest recognition can be found in the contract for work or work performance, which, while intended for self-employed, also provides certain additional social rights.
- In the UK, dependent self-employment is determined by case law. By using the wider concept of a worker compared to an employee, certain rights are established for all workers, including the dependent self-employed.
- Depending on the existence of a hybrid category, social rights of dependent self-employed are those of genuine self-employed or universal benefits for all inhabitants. Furthermore, through hybrid categories, certain social rights for employees are extended to the dependent self-employed.

In this chapter, the authors investigate the legal status of dependent self-employment across selected EU Member States. In addition to this, the section includes a careful consideration of the personal and economic dependence of self-employed workers as well as an assessment in view of their collective representation. Finally, the authors provide an overview on the scope of social protection regarding self-employed workers throughout these countries in a comparative perspective.

## 2.1. The legal uncertainty of dependent self-employment

### 2.1.1 Labour law and the contract of employment

Labour law is the body of laws, administrative rulings and precedents that define the legal rights and obligations of working people and their organisations, with EC labour law primarily representing the law of its different Member States. European labour law is a developing field, currently covering two main areas (Federation of European Employers 2012):

- Working conditions, including working time, part-time and fixed-term work, and posting of workers.
- Information and consultation of workers, including the event of collective redundancies and transfers of undertakings.

National law in the Member States is essentially concerned with providing minimum standards in the field of employee protection, and stipulates working conditions (regarding occupational health and safety, which is mainly regulated by EC directives), provisions on working time, vacation, protection against dismissal and the protection of particular groups of individuals such as the severely disabled, young workers and mothers. Rules on minimum wages only exist in a few countries, such as France and Italy, whereas the fixing of remuneration is generally left to collective agreements.

**The “employment relationship” has represented the cornerstone around which labour law and collective bargaining agreements have sought to recognise and protect the rights of workers.** Whatever its precise definition in different national contexts, it has represented “a universal notion which creates a link between a person, called the ‘employee’ (or the worker) with another person, called the ‘employer’, to whom she or he provides labour or services under certain conditions in return for remuneration” (ILO 2003: 2). The concept of employment relationship has always excluded those workers who are self-employed. However, some categories of dependent workers have increasingly found themselves effectively without labour protection owing to their employment relationship being disguised, ambiguous or not clearly defined. Consequently, an increasingly large share of workers is not protected under labour law or collective bargaining agreements.

### 2.1.2 Economic versus personal dependence

The issue of whether it remains appropriate to limit the scope of application of labour law to the employment relationship in a strict sense (contract between an “employer” and an “employee”) has represented the topic of widespread discussion for quite some time (Davidov and Langille 2011). In this context, the notions of personal and economic dependence are important:

- **Personal dependence** refers to dependence in terms of time, place and content of the work. It is the employer who determines when and where the work has to be carried out, as well as what has to be done and how. Employees in the strict sense are only personally dependent on the employer.
- **Economic dependence** means that the worker takes the entrepreneurial risk. Such workers have only one employer and thus generate their whole income from this business relationship.

A dependent self-employed worker is economically dependent on the employer’s orders, yet is not necessarily personally dependent on the employer. This problematic area is precisely the grey zone inhabited by these workers: “those who are both economically and

personally dependent border on the employee status, while those who are only to some degree economically dependent are closer to the borderline of independent self-employment” (Muehlberger 2007a).

### 2.1.3 Legal status of dependent self-employed

The difference between economical and personal dependence has consequences for the legal status of the workers. In the absence of specific interventions in the grey area of economic dependency without personal dependency, **the provisions for self-employed workers are generally applicable to those workers who are regarded as economically dependent**. Depending on the features of the national welfare state system, these workers are usually outside the scope of labour law protection (such as the rules on dismissals) and collective bargaining coverage, and are subject to different fiscal and tax regulations (EIRO 2002).

According to the EIRO (2002) comparative study, economically dependent workers are formally self-employed, given that they usually have a sort of “service contract” with the employer, and moreover depend on a single employer for their income (or a large part of it). However, in some cases, economically dependent workers may be similar to employees from other perspectives, e.g. the lack of clear organisational separation and the fact that there is no clear distinction of tasks between them and the existing employees. Referring to these features, dependent self-employed do not represent a homogeneous group, rather they occupy the blurred boundary between dependent employees and self-employed workers, and they often coincide with several forms of freelance work in which it is possible to find people who are closer to either of the two ends of this continuum (Eurofound 2010).

As the **dependent self-employed in most EU Member States legally fall within a so-called grey zone**, legal scientists argue that they are definitely amongst those whose employment status is largely in doubt (Sciarra 2004; Freedland 2003; Supiot 2001; Davies and Freedland 2000; Burchell et al. 1999). Freedland (2003: 18) argues that the dichotomist view of employees versus self-employed independent workers is based on a “false unity” of the two concepts, leading to a “false duality”. The indirect assumption of this binary rationale is that labour law is based on the need to protect employees, regarded as the weak party within the employment contract. On the other hand, self-employed persons are perceived as equal to the parties they contract with, and are thus subject to market forces (Perulli 2003: 6f). However, new forms of work organisation prove that both concepts (i.e. employment versus self-employment) in reality are fuzzy, including a variety of work activities.

Similarly, other scientists have argued that the traditionally personal scope of labour law and parts of social security law no longer reflect the organisation of work in today’s society (Sciarra 2004; Engblom 2003; Perulli 2003; Supiot 2001; Burchell et al. 1999).

**Some EU Member States have enacted laws to deal with those forms of work within this “grey zone”** between dependent employment and independent self-employment (OECD 2000). In recent years, nearly all countries have reported an increasing need to find criteria that will help to more effectively define the uncertain status of economically dependent workers (Eurofound 2010).

The difficulty in assessing dependent forms of self-employment is tackled in different ways throughout the European Union. In countries with **no statutory definition of dependent employment** (Ireland, Sweden and the United Kingdom), case law is the most important source of assessment. Other countries have **partly extended labour protection by legislative intervention**. Either by the introduction of new laws for specific work relationships (Austria, France, Greece, Germany and Portugal) or by creating new legal

employment statuses (Austria and Italy). Such new legal forms of employment have been introduced mainly to broaden the coverage of social security schemes – and notably pension schemes – to include these workers. However, these new forms of employment generally belong to the broader category of self-employment and therefore do not imply the full extension of dependent employees' protections (Eurofound 2010). Interestingly, Ireland is the only country to introduce **“soft regulation” by social dialogue**, extending the legal protection of workers in the grey zone.

#### 2.1.4 Collective representation of dependent self-employed

As previously discussed, the group of self-employed workers is extremely heterogeneous, comprising self-employed workers from the liberal professions, persons who are pursuing freelance activities as well as others engaging in low-paid professions. In recent years, certain groups of self-employed workers have been organised through different representations. The traditional liberal professionals (doctors, lawyers, architects, etc.) are often organised in independent interest associations. Craftspersons and small entrepreneurs, including in agriculture, are typically represented by specific trade and employer organisations. Journalists and performing arts workers have a long tradition of strong unionisation in many countries. Trade unions often have an established representation in construction, and have recently included “new self-employed workers” in their representational domains in certain countries.

Nonetheless, owing to the heterogeneity of this group, **social partners scarcely represent great parts of self-employed workers**. This situation is also comparable for the collective representation of dependent self-employed workers, as they are often classified as self-employed workers. While employer association and trade union federations provide services to the self-employed through information and legal assistance, they rarely represent their interests in the area of collective bargaining. However, here also differences between professions persist. EIRO (2002) distinguishes between **two situations of representation of dependent self-employed workers**:

The *first* refers to the **inclusion of economically dependent workers in existing trade unions**. One such variant is unions that traditionally represent freelance workers. This generally applies to the unions of journalists, media workers and sometimes lorry drivers.

The *second* refers to the **creation of new union organisations only organising/representing economically dependent workers**, regardless of the industry they work in, as opposed to sectoral organisations. Examples can be found in Italy, the Netherlands and Spain.

The developments are even less pronounced than in the domain of representation in terms of collective bargaining. In fact, union representation of new forms of employment, which may include economically dependent workers, is often quite recent. Naturally, this is not true for the more traditional forms of representation of specific categories of self-employed or freelance workers, such as journalists. Experiences of collective bargaining that cover economically dependent workers to a significant extent are only reported in a handful of countries, such as Austria, Italy, Norway, Spain and the United Kingdom (EIRO 2002).

## 2.2. Dependent self-employment and labour law in comparative perspective

While dependent self-employment does not always have a specific place in labour law, **some EU Member States have introduced a hybrid legal category to address the grey area between dependent employment and self-employment.** The aim of this hybrid legal category involves facilitating outsourcing activities whilst simultaneously covering dependent self-employed workers with some legal rights that would not exist under the legal status of self-employment. **Other countries have a strict dichotomy on the status of the dependent self-employed.** They are either classified as self-employed with little regulation on the employment relationship and little collective representation or as workers (when identified), and all aspects of labour law are applied to them.

Strikingly, **the countries that have chosen the path of introducing a hybrid legal category** are those with a high level of labour regulation, such as Austria, Germany and Italy.

- The most usual and traditional form of intervention involves the **presumption of the existence of legal subordination**, in order to protect some specific kinds of workers. This is the case for Austria, for instance, where a presumption of subordination is applicable in the case of sales representatives, pharmacists working in dispensaries open to the public, and sportspeople (Eurofound 2002).
- In contrast, other countries, including the United Kingdom, have opted for a **partial extension of employment law to the broader legal concept of the “worker”**, also including a part of dependent self-employed workers.
- Even in countries with hybrid legal concepts, some dependent self-employed workers may work as legally self-employed individuals as the hybrid category does not cover all dependent self-employed automatically.

Table 5 provides an overview of the legal status of dependent self-employed workers in seven selected EU Member States (Austria, Denmark, France, Germany, Italy, Slovakia and the United Kingdom), with each specific country discussed below.

**Table 5: Legal status of dependent (self-)employed in seven EU Member States**

Country	Main legal criterion of dependent employment	Specifications	Main legal form of dependent self-employment
Austria	Subordination	Work to be performed personally, within the context of the employer's establishment, under the employer's supervision and managerial and disciplinary authority.	Hybrid categories, which are employee-like: - free service worker ( <i>freier Dienstnehmer</i> ) - new self-employed workers ( <i>Neue Selbständige</i> ) - (a contractor of work and services ( <i>Werkvertragnehmer</i> )).
Denmark	Subordination	Employer's right to direct and control the work.	No hybrid category. One is either employed or self-employed.
France	Subordination	Employer's authority to direct work and control worker's performance.	No hybrid category. The "auto-entrepreneur" status was recently established which groups many dependent self-employed, but perceives them as regular self-employed according to labour law.
Germany	Personal dependency	Dependence in terms of: - place, time and content of work - incorporation in the employer's organisation - use of employer's equipment.	Hybrid category: - free service contract workers.
Italy	Subordination	Work that takes place within the firm, run by the employer, under the authority and direction of the employer.	Hybrid categories: - contracts of continuous and coordinated collaboration (Co.co.co.) - contracts for a project (co.co.pro.)..
Slovakia	Subordination	Work carried out personally as an employee for an employer, according to their instructions and in their name, for a wage or remuneration, during working time, at the expenses of the employer, using their means of production and with their liability, and mainly consisting of certain repeated activities.	No hybrid category, yet the following statutes exist: - the contract for work - the contract for work performance/activity.
United Kingdom	There are statutory definitions of employment, but its application depends on case law.	Indicators developed by case law: - control - integration in the business - economic reality - mutuality of obligation.	No hybrid category, but some laws have been broader defined to also cover dependent self-employed workers: The term "worker" refers to both employees and other workers who not meet all conditions of being employees.

**Sources:** Muehlberger (2007), EIRO (2002) and own interpretation.

### 2.2.1 Austria

Austria is one of the many countries where **dependent employment is defined by the criterion of legal subordination**. However, it has been recognised that a strict dichotomy between dependent employment and the autonomy of self-employment did not reflect the actual situation in the labour market, and consequently an extensive social security reform took place in 1997, defining several hybrid categories of employment and extending certain right to groups of self-employed (Muehlberger 2007).

**Labour law in Austria recognises both personal and economic dependence**, emphasising that being in an economically dependent relationship does not formally mean that a person is personally dependent upon this relationship. Furthermore, economic dependence might be irrelevant due to the resources of the worker and/or other work relationships. Personal and economic dependence must sometimes both be proven to establish the true relationship between the worker and employer (Schindler 2000). Courts use the following criteria to determine personal dependency (Muehlberger 2007):

- The worker needs to be subordinated to the rules of the organisation that determine the worker's self-determination (working time, dress code, etc.).
- The worker must follow orders on how to deploy their labour.
- The manner in which the worker is subjected to disciplinary control and disciplinary sanctions by the employer.
- The personal duty of service of the worker to the employer.
- The degree to which the necessary means and surrounding are (mostly) provided by the employer.

However, in some cases, some functions are automatically classified as being in a subordinate and thus dependent relationship, such as for sales representatives, pharmacists who work in dispensaries open to the public, and sportspeople (for whom a mandatory presumption of subordination has been established).

The category halfway between employment and self-employment much depends on how both sides are defined. Self-employment in Austria is defined by Austrian commercial law, stating that a self-employed person works on its own account and risk; therefore, **the element of risk-taking is the crucial distinction between the employee and the self-employed**. However, dependency and risk-taking do not necessarily mean that someone is not self-employed (Van Husen 2000).

**Being self-employed in Austria means that one cannot claim the same employment protection as employees**. However, since the social security reform of 1997 and 2008, many general provisions have covered both employees and self-employed workers. To capture the element of dependency, several midway categories were created with their own legal status, which can receive some of the same rights as employees. The categories to which this applies are mainly the free service contract workers, but also the new self-employed and even in some extent the contractors of work and services.

These categories of dependent self-employment are still mainly seen as self-employed in terms of labour law, meaning that specific employee provisions on working time and health and safety do not apply to them. However, in terms of social security, they are treated similarly to employees, following a recent social security reform in 2008. This will be discussed in further detail later on.

**Hybrid forms between employment and self-employment** are the following (Eurofound 2010; Muehlberger 2007):

- **Free service contract workers** (*freie Dienstnehmer*): They provide on-going services, often to a single employer for a long period of time, even if it is legally conducted on a fixed-term basis. This means they are dependent on the client, who as their employer normally also has to provide their working materials. In 2008, Austria included free service contract workers in the unemployment and health scheme, and they now also have the right to take parental leave and are thus treated similar to employees.
- **New self-employed** (*Neue Selbständige*): This category was introduced in the General Social Insurance Act in 1998 as a residual category in order to avoid self-employed workers escaping from paying social security. This category is unknown to labour law. They are obligatory part of the sickness, work accident and pension insurance system if they earn over a certain amount per year (2012: EUR 6.453,36). This category contains a heterogeneous group of workers, such as scientists, artists and journalists.
- **Contractor of work and services** (*Werkvertragnehmer*): These workers have a contract for work and services without a trade licence, or are freelance workers in some liberal professions (e.g. psychologists, psychotherapists, lecturers and trainers, etc.). They are executors of clearly defined tasks for clients rather than continual tasks for the same client. They can also subcontract their work, putting them in a middle position, and most labour law regulations do not apply to them. Like new self-employed workers, they are obligatory part of the sickness, work accident and pension insurance system if they earn over a certain amount per year (2012: EUR 6,453.36). Despite seemingly being more independent, they often fall into the category of dependent self-employment as they are increasingly used to replace “standard” with “non-standard” employment relationships (Bock-Schappelwein and Muehlberger 2008).

**Own account workers are often deployed as dependent self-employed workers**, whereby they are legally self-employed yet closely integrated into the business of their contract partner, but without making use of the hybrid categories (Muehlberger 2007a). Thereby they lose the protection and obligations of the hybrid categories and are treated as legally self-employed.

### 2.2.2 Denmark

The Danish labour laws are developed in the context of the Nordic model of corporatism, which builds on the principles of collective bargaining. This means that the political sphere is not the only arena where laws are developed, but organised groups are also accepted as legitimate political actors. Hence, unions and employers federations are invited in both governmental processes, as well as members of the labour court system.

**Flexicurity** is the term used to describe the special Danish three-sided mix of flexibility in the labour market, **combining social security and an active labour market policy with rights and obligations for the unemployed**. In practice, this model means that the labour market has a high degree of mobilisation.

Self-employment is initiated by an individual’s registration of a company with the purpose of generating income and from which the individual’s main income is generated. If the business is closed down, the categorisation as self-employed ceases. A person can register a company and still be wage-employed if the income generated from the company is only considered as supplementary income.

**The demarcation between self-employment and wage-employment is formulated by the tax-authorities and upheld in legal provisions.** However, as the social protective system operates across the legal terminology, economically dependent self-employed workers often find themselves with similar rights to wage employees, with little difference in social protection. Dependent self-employment is not formally defined within Danish law, and indeed the self-employed are implicitly referred to by law as independent, thus legal dependency for self-employed is formally non-existent. In fact, the Danish word for self-employed, *selvstændig*, means independent.

However, it makes sense to refer to the existing self-employed heterogeneous group of atypical, self-employed contractors without employees as a group of dependent self-employed. They typically fall between the groups of “normal” employees and the self-employed with own business. In some instances, Danish law considers them self-employed, whilst in other matters such as tax laws, sick leave, etc., the self-employed are defined as employees. This group is economically dependent of their companies, usually through a time-based or function-based contract. These contractors are characterised by insecure payment flows and fluctuation of income in time and size:

- **Self-employed with different employers over time**, receiving a fee as payment for their work. These groups typically include artists, including musicians, and freelancers, which includes creative jobs, IT-contractors, journalists, photographers, graphical workers and interpreters.
- **Workers based on a special task or within a special time period for a client**, whereby the worker receives most or all of their income from this employment. Such work typically includes IT-workers, research and development (R&D), instructors and other consultants with various types of expertise. The common form of payment is a fee, which is mostly taxed as secondary income.
- **Self-employed with supplementary income or semi-self-employed**, who utilise their skills both as employees and self-employed at the same time. These individuals do not depend solely on the income generated by their activities as self-employed.
- **“False” self-employment**, namely individuals registered as self-employed owing to tax or unemployment benefits, existing almost entirely in the building and construction sector. The exact number of such workers is not known, but according to experts is not significant.

Given that labour rights in Denmark are de facto regulated by the historic tripartite system, memberships to a group with collective bargaining power is the single most important parameter for obtaining labour rights. The various and non-unified groups that form the Danish definition of dependent self-employed are not gathered as a visible collective group. Therefore, the crossover of interests between freelancers and semi-employees are rarely represented in the bargaining processes.

The close links between labour law, the collective bargaining system and social protection laws provides the **dependent self-employed** with a disadvantage, also vis-à-vis the social protection laws in so far as they **are not included in the bargaining agreements made for wage-employees**. Instead, the unions or organisations representing the self-employed are responsible for taking up the issues of the dependent self-employed, which means that some of their cross-over demands (between wage-employment and self-employment) are marginalised. Within the group of self-employed they form a rather heterogeneous group.

The labour laws are generally formulated for either wage-employment or self-employed, with the legal interpretation concerning grey-zone incidences often left to the authorities. This explains why the unions representing the self-employed often devote much energy in explaining the rules about tax and unemployment benefits to their members. **Being in the middle territory between ordinary employment and self-employment, it is difficult to identify the rules to apply.**

According to Statistics Denmark, **a self-employed person has either a one-person business or is a wage-employer**, meaning that the company is personally owned with at least one employee. Furthermore, the tax-authorities divide self-employed with their business as main occupation and those who are self-employed as a secondary occupation. Despite both groups being covered by the universal social protection benefits (see 2.3.2), only the latter group can receive unemployment benefits.

### 2.2.3 France

In France, **the criterion to establish employment dependency is the authority of the employer to direct work and control workers' performance.** Labour law makes directing subordination into different categories difficult, with no clear definition of direct employment.

- By case law, a contractual employment relationship is defined by the act of working for another person (as in a legal entity), receiving a wage for its work, and performing this work in a subordinate relationship (Gineste 2008).
- **Self-employment is defined by national law.** In itself, it is split into a set of professional categories: craft-industry professionals, industrial and commercial professionals, independent professionals (liberal professions such as lawyers, architects, surgeons, etc.) and cultivating professions. The definition of self-employment consists of performing a task or labour for compensation in the form of a wage, and independently from the structure and tools of the client. These criteria largely correspond with those of a contractual employment relationship, with the important difference being the independency criterion. Thus, the most specific way of defining self-employment is the absence of subordination (Gineste 2008). This is the criterion upon which a concealed employment relationship is based, encompassing "bogus self-employment". By concealing the employment relationship, the employer can avoid the formal work requirement of labour law and avoid paying additional taxes and contributions.

France has a complicated set of labour laws based on different categories of workers, yet **there is no specific category that can encompass dependent self-employed workers.** However, as workers could be exploited when there is no requirement for a written labour contract, the situation of semi-dependent workers has been recognised. Through case law, it is been established that if the worker works under conditions similar to a labour contract, it can be recognised and qualified as a labour contract. More importantly, these workers will be recognised as employees.

However, as in the case of Austria, some professions are deemed to have a subordinate element by nature, even if those practising it are formally self-employed. Accordingly, certain categories, such as professional journalists, artists and writers, as well as models and lumberjacks, can be covered by the provisions applied to employees. Recent case law has applied these provisions to franchisees, who work exclusively by using or selling items supplied by a single firm (EIRO 2002).

**The introduction of the new “auto-entrepreneur” status** in France on 4 August 2008 **has helped a large number of people to increase their income through self-employment activities**. It was conceived to help employees, students and retired people to build their income through establishing a small activity. However, **the new auto-entrepreneur status has been abused by some employers**, in order that they can pay less tax for employees who are pushed into accepting the new status (European Employment Observatory Review 2010). According to Mr Griset, president of the Assemblée permanente des chambres de métiers et de l'artisanat (APCMA), the auto-entrepreneur “allows the legalisation of concealed work with no real regulation while providing specific benefits, that results in distortions of competition”, thus creating “unfair competition” for artisans. Adjustments are being discussed with the minister responsible (Start Business in France 2012).

#### 2.2.4 Germany

In Germany, **dependent employment is decided based upon criteria of personal dependency in terms of the place, time and content of work**, together with the incorporation in the employer’s organisation and use of the employer’s equipment. Regular or direct employment has no formal definition, yet is based on an occupation as described in the Social law (*Sozialgesetzbuch*), which also states paying contributions to all types of social security is obligatory (Gross 2009). All regulations and agreements refer back to this concept.

**A legal definition for self-employment does not exist.** The difference between self-employment as independent work and dependent employment has been established in court by case law and is derived by the legal definition for dependent employment, defining that someone is an employee if that worker is dependent on the employers’ instructions in terms of (i) place, (ii) time and (iii) content of work, (iv) is incorporated into the organisational structure of the employer, and (v) uses the production equipment of the employer (Eurofound 2010). In 1999, a legislative act established a set of five criteria to assess the employment relationship, determining that someone is more an employee than self-employed if that person: (i) has not engaged employees who are liable to compulsory insurance deductions; (ii) has only one employer; (iii) executes the same type of task at regular intervals; (iv) does not fulfil the criteria of entrepreneurship that are based on personal and economic independence; or (v) provides services that are consistent with former dependent work within the same company.

This set of criteria was removed from the law in 2003, but is nevertheless applied in practice by the social insurance administration (pension insurance) in terms of assessing the actual employment status. Workers can be deemed as self-employed if they do not fulfil three of these criteria. However, the question is whether they determine their own form of activity and working hours independently, with the distinguishing criterion being the degree of personal dependency of the self-employed. Consequently, many dependent self-employed workers should be viewed as employees because they would fulfil at least three criteria. Yet, as the social administration has to prove that someone who is self-employed should in fact be employed as a regular employee, few transfers are made owing to the difficulty in identifying these workers and their employers. As a result, **most economically dependent self-employed are registered as self-employed and can only obtain the limited rights that these can receive** (Eurofound 2010). However, a self-employed person who would be registered as an employee through meeting these criteria would only be levelled with employees for their social security rights, and it does not confer other rights determined in labour law or collective agreements (EIRO 2002).

**A hybrid category between employee and self-employed exists for dependent self-employed who mainly work for only one employer** and do not employ employees subject to social insurance contribution. This category comprises **free service contract workers who are still mainly considered as self-employed** in terms of labour law and social security. Thus, they cannot claim the full social security coverage and employment protection as employees can. However, to capture the element of economical dependency, they are compulsorily insured in the statutory pension insurance. This means they form a special category of recognised dependent self-employed workers, but with a right only slightly more advantageous than the self-employed. **Self-employed workers are not subject to labour law and social security schemes, and thus they do not hold any workers rights**, according to legal or administrative provisions or collective bargaining agreement (Gross 2009).

### 2.2.5 Italy

In Italy, “genuine” self-employed workers (*lavoratori autonomi*) are those who perform a service or work under payment, without being subject to subordination and working with their own assets.<sup>3</sup> Unlike employees, self-employed workers assume an “obligation of result” (the commitment to achieve a given outcome), rather than an “obligation of means” (the commitment to provide work force for a given period of time). They are not salaried and are not subject to the social protection associated with salaried work (i.e. they are excluded from major employment protection acts).

Therefore, self-employed workers include traditional categories such as small businessmen, artisans and traders, working with or without employees. Additionally, there are the so-called *liberi professionisti* (i.e. free professionals), which is an extremely heterogeneous group including self-employed workers from liberal professions (lawyers, notaries, architects, doctors, journalists, etc.) as well as people who pursue professional freelance activities (VAT-registered workers). Workers in licensed professions (i.e. whose practice is subordinated to a state examination and registration in a professional association) typically have their own private, professional, social security funds and their own insurance system concerning maternity leave (albeit limited), illness and pension. However, they are excluded from collective and firm agreements, working time regulations, protection in the case of the firm’s insolvency, holiday regulation and equal treatment regulation.

Both traditional categories of self-employment and free-professionals may be subject to a situation of dependence from customers or clients. For instance, the presence of one single client can hide a situation of limited organisational autonomy and economic dependence. According to recent data from the Italian Labour Force Survey, **almost one in four free-professionals works for a single client**, with most of them declaring to have limited managerial autonomy (Ranci 2012). The Italian government has recently tried to regulate this type of situation with a new piece of legislation (although its effectiveness is still very controversial). Law 92/2012 (the so-called “Fornero Reform”) regulates any work activity performed by self-employed workers holding a VAT number. Accordingly with the new legislation, **self-employed work is considered “a coordinated and continuous relationship”, forming an employment relationship** (with the burden of proof on the employer) if at least two of the following conditions exist: (i) the relationship lasts for a total of more than eight months within the same year; (ii) the compensation deriving from the relationship represents more than 80 per cent of the total compensation earned by the

<sup>3</sup> Art. 222, Civil Code.

worker within the year; and (iii) the worker has their work space at the employer's offices<sup>4</sup>. The new rules apply to working relationships starting after July 2012.

Finally, the last 20 years have seen the increasing diffusion of "non-standard" forms of work, i.e. whose characteristics differ from those of indefinite duration and full-time employment. Particularly common among these non-standard forms is the "semi-subordinate" employment relationship that combines conditions typical of subordinate employment with those typical of self-employment. Accordingly to Ranci (2012), for example, 83 per cent of semi-subordinate work contracts involve a single-client relationship, reaching 90 per cent if only occasional work is considered. However, semi-subordinate work generally comprises very heterogeneous situations, ranging from professional services furnished to different employers to the improper use of employer-coordinated freelance labour for jobs that could, or should, be performed under the legal form of subordinate employment (Eurofound 2010). Since the mid-1990s, several reforms have introduced new types of work contracts on the boundary between self-employment and traditional permanent employment.

- In 1995, a new law regulated a type of **short-term contract called "continuous and coordinated contractual relationship" (Co.co.co)**. Co.co.co contracts have existed since the 1970s, but the new legislation introduced pension contributions to be paid to a special fund within the Social Security Administration. Within these contracts, the worker is (at least theoretically) independent, since there is no formal subordination to the employer. The worker is a collaborator whose activity must be adjusted accordingly with the organisational needs of the firm (Tealdi 2012). **The firm pays lower social security contributions with respect to standard permanent contracts, while the workers on Co.co.co contracts have the right to (lower) social security benefits.**
- In order to restrict the use of continuous and coordinated contractual relationships as a form of "bogus self-employment", Law 30/2003 (the "Biagi Reform") introduced the project contract (Co.co.pro).<sup>5</sup> This new type of employment relationship must be linked to a specific project chosen by the job provider.
- The possibility of working on the basis of a project contract of collaboration was further extended beyond professional and artistic activities, allowing additionally also manual and non-professional workers to supply labour as collaborators.

Both types of collaborators receive family allowance and an allowance during parental leave, as well as during periods in hospital (yet not for illness without hospitalisation), although welfare and social security benefits are less generous than under permanent contracts. Legislative decree 38/2000 extended the obligatory insurance against accidents and professional diseases to collaborators, while the fiscal law of 2000 obliged the employers to pay the collaborators on a monthly basis. Law 30/2003 also introduced the figure of **"occasional collaborators", which regulates occasional independent activities performed for a period** that cannot last more than 30 days within the same year with the same employer. Moreover, the maximum annual income under this type of contract cannot exceed EUR 5,000. Finally, **occasional work does not require the payment of social security and welfare contributions.**

All of these categories have been increasingly used by Italian firms over the last decades. The aim of these work relationships is to ensure a more flexible contract for both the

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<sup>4</sup> Licensed professionals enrolled in a professional association are excluded from this principle, thus reducing the actual scope of the new legislation.

<sup>5</sup> The Co.co.co contracts have not been entirely replaced. They are still used for specific types of occupations (chief executive officers, collaborators to journals, pollsters, athletes etc.).

employer (promptness and simplicity in stipulating the contract) and employee (self-determination of timing and methods of the work). However, **these contracts have also been used** by both the public and private sector **as a low-cost alternative to fixed-term and permanent contracts**, given that they are not subject to substantial parts of employment protection and social security laws (Muehlberger 2007). Despite attempts to further regulate several categories of self-employment workers, these types of employment relationships still lacked a coherent set of rules and collective agreements. Therefore, the normative framework introduced in 2003 has established a series of provisions intended to provide greater protection for freelance workers coordinated by an employer and for “project workers”. In particular, the law has extended to these workers some social security benefits provided to protect workers in the case of pregnancy, sickness and injury. The recent Finance Act of 2007 introduced further measures to strengthen social protection for these workers. Since 1 January 2007, employer-coordinated freelancers and project workers enrolled with the separate social security fund have been entitled to a daily sickness allowance paid by the Italian National Social Security Institute (INPS). The same law introduced an allowance for parental leave. However, **the protections and rights for these workers, stipulated by the law and collective bargaining, continue to be significantly lower than those granted to dependent employees** (Muehlberger 2007a).

#### 2.2.6 Slovakia

Legislation in Slovakia currently provides the entitlement to work gainfully as a self-employed worker or in a form of economically dependent employment. Economically dependent workers in Slovakia are currently not regulated by any specific “hybrid” legislation. These workers fall under the legislation for self-employed workers. When they carry out the same work for a single employer as if employees, they are referred to as dependent self-employed. Dependent self-employment as a political and economic issue surfaced in Slovakia in 2007. The reason was a **growing number of self-employed people, largely driven by an increase in bogus self-employment**. In 2007, the government together with the trade unions proposed a **definition of dependent work in order to distinguish between self-employment and dependent employment**.

Subsequently, the Labour Code was amended with a new definition of dependent work with the aim to eliminate bogus self-employment through legal framework (Kahancová and Martišková 2011). However, this still means that dependent self-employment first has to be identified as such, thus the law did not have an immediate effect. Dependent work was defined as work carried out personally as an employee for an employer, according to the employer’s instructions, in the employer’s name, for a wage or remuneration, during working time, at the expenses of the employer, using the employer’s means of production and with the employer’s liability, and also mainly consisting of certain repeated activities.

The labour law represented mostly by the Labour Code regulates employer–employee relationships, yet **dependent self-employment does not fall under this regulation**. The relationship between employer and dependent self-employed is solely regulated by the Commercial Code as a standard business relationship. Therefore, **there is no obligatory probationary or dismissal period and no regulated working time arrangements**. While contracts between dependent self-employed and their “employers” often stipulate certain rights for the “employees”, these are often verbal or below the standards required by the Labour Code (Kahancová and Martišková 2011). Provisions of the Labour Code do not apply to self-employed workers, nor do such workers enjoy the social protection granted to full-time employees. However, hiring workers in this way offers advantages for employers concerning labour costs, and also for self-employed people in terms of net income.

In terms of the self-employed, the laws regulate the work of all self-employed people in the same way, irrespective of whether they operate as freelancers or economically dependent workers. The existence of economically dependent workers is also influenced by the high level of compulsory employer contributions to sickness, old-age and unemployment insurance funds on behalf of their employees. Therefore, the employer may make an agreement with the employee that they become self-employed. In this way, the employer can then reduce expenses by avoiding the compulsory contributions into the insurance funds for those who opt for self-employment.

Self-employed persons are obliged to pay social contribution of 47.15 per cent of the base for social contributions. They can choose this base, with the minimum base from which social contribution has to be paid legally stipulated at 44.2 per cent of the national average wage. Therefore, the minimum social contribution is around EUR 163 per month, while the maximum social contribution is EUR 1,258 per month. Given that many dependent self-employed choose a low base for social contributions, their social protection is also limited. In particular, according to Social Security Agency of Slovakia, 87 per cent of all self-employed contribute with the minimum payments, and the low payments of self-employed people have already had certain consequences. There is a group of retired self-employed who have to be supported by additional social transfers because they are only entitled to very low pensions. The current government has an intention of eliminating such cases by increasing the minimum base for social contributions to 50 per cent of the average wage.

The most frequent forms of attainment of the mid-way between dependent employment and self-employment are the contract for work, the contract for work performance and the contract for work activity (Eurofound 2010)<sup>6</sup>.

The **contract for work**<sup>7</sup> implies the worker is to provide a specific task for the employer for which the worker pays a fee or price (Pirolt, 2009). **The worker pays no social contributions, while no social security rights are applicable to the worker.** However, this is not considered dependent self-employment as the work should explicitly be done by a self-employed person and concerns one specific task, not a continuous relationship.

The **contract for work performance** and **contract for work activity** are contract outside of a direct employment relationship<sup>8</sup> (Pirolt, 2009). These imply the worker has to do specific, exceptional work defined by the result or the kind of work. It generally implies a longer term task than the contract for work. In contrast to the performance for work, the employer has certain responsibilities concerning the workplace and working conditions, but without the need to pay social contributions. **Social security coverage for the worker remains low with only accidents at work insured, and the worker is also exempt from paying social contributions.** Furthermore, even disability or old-age cannot be insured under such contracts.

### 2.2.7 United Kingdom

In the United Kingdom, the legal concept of “worker” was used for the entitlement to the Equal Pay Act and Wages Act in 1986.<sup>9</sup> Many rules, regulations and rights only apply to employees, yet a number apply to all workers. The precise definitions of an employee and worker differ slightly from one area of the law to another, but in general:

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<sup>6</sup> See also [www.eurofound.europa.eu/comparative/tn0801018s/sk0801019q.htm](http://www.eurofound.europa.eu/comparative/tn0801018s/sk0801019q.htm).

<sup>7</sup> “Locatio operis”, according to the Act no. 513/1991 Coll. on Commercial Code, Articles 536 and following.

<sup>8</sup> According to Article 223 of Labour Code.

<sup>9</sup> This has now been consolidated into the Employment Rights Act 1996 (ERA), which also has a definition of worker.

- An “**employee**” is an individual who works for an employer under the terms of a contract of employment, with some casual workers likely to be employees with short-term contracts. The test for “employee status” is found in case law, whereby courts and tribunals will usually consider several factors: there must be a mutual obligation to supply and perform work, the employer must have sufficient control over the employee, and the other provisions of the contract must be consistent with it being a contract of employment. The fact that an individual is paying tax on an employed/self-employed basis is a relevant factor in determining whether they are a worker, yet is not conclusive.
- A “**worker**” is any individual person who works under a contract, whether or not it is a contract of employment, to provide a “personal service”. The emphasis lies in determining whether an individual provides a personal service. In practice, the fact that the individual has only worked for that employer can represent an important argument for proving worker status. Workers who are not employees include some casual workers, agency workers and some freelance workers. In general terms, “genuinely self-employed” or businesses to which an employer subcontracts are not defined as workers. All employees are workers, however not all workers are employees. This category classifies dependent self-employed workers to some extent (Freedland 2003: 22ff).

The statutory definition of a worker excludes those situations in which the employers’ status is that of a “client or customer of any profession or business undertaking carried on by the individual” (Employment Rights Act 1996 s230). Beyond this statutory definition, whether or not an individual is a worker is a matter of case law.

In marginal cases, namely where it is unclear whether an employer has the status of a “client or customer”, a strong indicator is whether the person is actively marketing their services to the world in general, or whether he is recruited by the employer to work for that employer as an integral part of that employer’s organisation. Naturally, the classification of the employment status has effects on employment protection and social security. While employees in some circumstances enjoy protection against unfair dismissal, the right to request flexible working arrangements, the right of maternity/paternity/adoption leave, the right to take days off to care for sick family members, and the right to take parental leave to care for children, **workers who are not employees and the self-employed are not entitled to such employment protection measures**. Nevertheless, compared to Austria, for example, employment protection through labour law is less regulated in the United Kingdom and thus automatically the labour status on itself provides a lower protection standard (Muehlberger 2007).

Under the wider definition of worker, some limited elements of employment protection legislation have been extended to some of those individuals who fall into the dependent self-employed category, including the right to the National Minimum Wage and rights under the Working Time Regulations, the right to paid holiday and the right to take certain rest breaks. Other rights include the right not to have unlawful deductions from their wages and certain rights against less favourable treatment on the grounds of being a part-time worker. Protection against discrimination is available to “employees” as defined under the Equality Act 2010. However the definition of “employee” under the Equality Act includes those on a “contract personally to do work”. Therefore, those found to be workers under other legislation are likely also protected from discrimination at work under the Equality Act.

### 2.3. The scope of social protection in comparative perspective

An important aspect in the discussion of **dependent self-employment** relates to the **coverage received from the social security systems** in each country, with their social protection depending on which category of workers they are classified in. However, **social security coverage has no direct link to the existence or recognition of dependent self-employment in labour law**. In broad terms, there are **three main options** that apply to the social security coverage of dependent self-employed workers.

- In some cases, **dependent self-employed are identified as workers** and receive the same or equal protection as employees. However, this is rather rare, as it relies on a correct identification of the worker as a dependent self-employed, accordingly granting the same rights and benefits. In countries where (aspects of) social security does not differ for employed or self-employed, the dependent self-employed worker always receives the equal protection.
- A second option is to **classify the dependent self-employed as a completely self-employed worker**. In this case, the rules of social protection for self-employed apply, which are often less advantageous, and specifically when devoid derived from the benefits of being self-employed.
- A third option is **creating a certain middle ground where social protection for the dependent self-employed is regulated** and adopting characteristics of both employees and self-employed, as is the case in Italy for the *Collaborazioni coordinate e continuative*, and to a lesser extent in Austria and Germany (EIRO 2002). It is important to note that this category only applies to workers identified as being dependent self-employed workers. It is perfectly possible to have several categories in the same country, depending on how they are formally classified or identified as dependent self-employed.

However, when examining the social security provisions for dependent self-employed workers in the seven selected countries, it becomes clear that **the second category is applied in most countries** and that the provisions for the dependent self-employed are similar to those of the self-employed, yet without the same liberty enjoyed by the latter.

Table 6 provides an overview of the several aspects of social security, including the coverage that dependent self-employed receive. It can follow rules for employees, sometimes with small distinctions, for the self-employed or specific rules for dependent workers. If the social right of the dependent self-employed matches both self-employed and employees, the rights are marked as "universal". In some cases, minor thresholds exist between the groups, yet the access generally does not differ for the dependent self-employed, in which case it is displayed as "semi-universal". If no specific category for dependent self-employment exists or no special rules apply, the social rights of dependent self-employed are shown as following "self-employment". When certain special employment categories exist that include a large group of dependent self-employed with their own social protection right, this is shown as following "own rules".

Table 6 shows that some categories of countries exist. **One category applies the same right for most of its population** regardless of the employment category, with Denmark a clear example and Austria to some extent. Other countries without universal provisions and no definition **grant dependent self-employment the same rights as regular self-employment**, with Germany, the United Kingdom and, to an extent, France belonging in this category. Then there is a selection of countries that **recognise certain forms of dependent self-employment**, such as Italy and Slovakia. However, while this means better conditions for the dependent self-employed in Italy, the conditions in Slovakia are less advantageous for dependent self-employed workers. The self-employed there have

similar benefits as the employees, though more restricted, but the dependent self-employed in their special contracts are far less protected. An important caveat is that **neither group of dependent self-employed is all inclusive**. In countries where an employment status includes or recognises dependent self-employment, some dependent self-employed may find themselves in these special categories, yet others can still be registered as regularly self-employed.

**Table 6: Overview of the scope of social protection for dependent self-employed in seven EU Member States**

Social protection	Austria	Denmark	France	Germany	Italy	Slovakia	United Kingdom
<b>Sickness &amp; Maternity</b>	Own rules	Universal	Self-employed	Self-employed	Own rules	Self-employed	(semi-) Universal/self-employed
<b>Long-term care</b>	Universal	Universal	Self-employed	Self-employed	Universal	Universal	Self-employed
<b>Invalidity</b>	(semi-) Universal	Universal	Self-employed	Self-employed	Self-employed	Self-employed	(semi) Universal
<b>Old age</b>	(semi-) Universal	Self-employed	Self-employed/employee	Self-employed	Own rules	Self-employed	Self-employed
<b>Survivors</b>	(semi-) Universal	Self-employed	Self-employed/employee	Self-employed	Own rules	Self-employed	Self-employed
<b>Accidents at work</b>	(semi-) Universal	Self-employed	Self-employed/employee	Self-employed	Employees	Self-employed	Self-employed
<b>Family benefits</b>	Universal	Universal	Universal	Universal	Employees	Universal	Universal
<b>Unemployment</b>	Self-employed	Self-employed	Self-employed	Self-employed	Own rules	Self-employed (voluntary)	Self-employed

**Source:** own assessment based on Missoc data.

A more detailed overview is provided for each country in the following sections, in terms of the type of social protection received by the worker – either as an employee, self-employed or dependent self-employed. Based on the Missoc data of 2011 and 2012, an overview of the social protection rights and systems in each country is provided.

It is important to stress that the category of dependent self-employment entails the special employment categories that are considered as dependent self-employed, but that dependent self-employed workers can still always be registered as self-employed.

### 2.3.1 Austria

In Austria, dependent self-employed workers might be registered as regular self-employed persons, however they could also be registered in one of the categories discussed above (free service contractors, new self-employed workers or contractor of work and services).

**There are different social provisions for different dependent self-employed persons**, depending under which legal category they are registered (see Table 7).

Some aspects of the social security system are almost identical or apply to all people in employment, with issues such as invalidity, old age and accidents at work the same or very similar for employees and self-employed. Family benefits and long-term care provisions are universal and thus do not differ according to the employment situation. In some cases, small differences exist between the groups of self-employed workers, primarily farmers and craftsmen (Eurofound 2010).

**Table 7: Overview of the scope of social protection for employees, self-employed and dependent self-employed in Austria**

	Employees	Self-employed	Dependent self-employed
Financing	Contributions (insured persons and employers) and taxes.	Contributions (self-employed) and taxes.	Contributions and taxes from the self-employed
Sickness and Maternity	Compulsory social insurance scheme for employees with earnings-related benefits with the continuation of payment of wages and salaries by the employer. Maternity: 8 weeks before and after birth: . Earning-related cash benefits, subsequently either benefits in kind (universal) or earning-related cash up to 36 months (variations).	Compulsory social insurance scheme, but all benefits imply an initial charge of 20% to be borne by the self-employed.	Free service contractors: follows employees. New self-employed workers and contractors of work and services: they are obligatory part of the sickness insurance system if the earn over a certain amount per year (2012: EUR 6.453,36). Maternity: only universal benefits in kind.
Long-term care	Long-term care benefit of the Federal Government, benefits in kind by public and private providers.	Universal	Universal
Invalidity	Compulsory social insurance scheme financed by contributions covering workers with earnings-related pensions depending on contributions and the duration of affiliation.	The only particularity is the different definition of invalidity.	Follows employees and pension regulation (see above).
Old age	Compulsory social insurance scheme financed by contributions covering workers providing earnings-related pensions depending on contributions and the duration of affiliation.	Follows employees.	Free service contractors: follows employees. New self-employed workers and contractors of work and services: they are obligatory part of the old age system.
Survivors	Compulsory social insurance scheme financed by contributions for workers with benefits depending on the pension of the deceased.	Surviving spouses may also elect to maintain the undertaking of the deceased spouse, without widow pension yet with accumulate insurance period.	Universal.
Accidents at work	Independent compulsory social insurance scheme financed by contributions for employees,	Special regulation for farmers.	Follows employees.

	Employees	Self-employed	Dependent self-employed
	certain categories of self-employed and other groups with benefits in kind and earnings-related cash benefits.		
Family benefits	Universal scheme for all residents financed by employers' contributions and taxes providing child benefits, a child-raising allowance and some special categories.	Businessmen and farmers are entitled to family benefits of the general scheme.	Universal.
Unemployment	Compulsory social insurance scheme financed by contributions for all employees and assimilated groups with earnings-related benefits.	Self-employed persons can choose whether or not to be insured against unemployment, and thereby further improve their social protection. Not applicable to all self-employed.	Follows self-employment.

**Source:** Missoc data 2011-2012, Bock-Schappelwein and Muehlberger (2008).

### 2.3.2 Denmark

The Danish welfare model is usually referred to as the Scandinavian Welfare Model, with the social protection system based on the principle of national insurance, largely financed by the state, but with a membership share. Exemplary to this is the monthly contribution to the unemployment insurance. **The employed and self-employed within the Danish welfare system enjoy similar social protection as dependent self-employed.** However, the eligibility conditions are different for the self-employed, mainly to establish that the person has been genuinely self-employed. Requirements include being member of an unemployment fund for at least one year and having activities of a certain scale for 52 weeks of the last three years in order to receive financial aid. To receive sickness benefits (starting two weeks after start of the sickness period), the professional activity of the self-employed must have been exercised for certain duration within a certain time limit. Table A1 (see Annex) illustrates the minor differences in the actual coverage differences between employees and the self-employed. **Most areas of social security are universal and do not make a distinction between employees and the self-employed** if the above-mentioned requirements are taken into account. Consequently, the self-employed and dependent self-employed receive almost the same social protection. However, a few distinctions exist in terms of pensions, insurance against accidents and unemployment.

Access to the state-financed pension is universal. Nevertheless, self-employed have less access to supplementary pensions. **Self-employed can only maintain a supplementary pension when they have contributed for three years as an employee and decide to continue contributing.** Insurance against accidents is only optional for the self-employed, likewise unemployment insurance. The unemployment insurance membership is a voluntary scheme administered by the unemployment insurance funds. Therefore, the Danish system differentiates between the insured and uninsured unemployed. The unemployment insurance funds are private associations of employees or self-employed persons organised for the sole purpose of ensuring economic support in the event of unemployment.

However, unemployment benefits are largely financed by the state, which also controls the institutional framework for accessing the scheme, including the size of benefits and the strict set of rules for sanctions concerning fraud or misuse. Self-employed who have their business as their main occupation cannot receive supplementary unemployment benefit.

This benefit is only applicable to a person who is self-employed as a secondary occupation and who is available to work within normal working hours. **Fixed-term freelancers and other dependent self-employed are particularly vulnerable in relation to the unemployment system**, given that they experience periodical unemployment more than others. During such periods, they are entitled to receive supplementary unemployment benefit if their business is evaluated as economically dependent. However, the eligibility criteria to prove genuine unemployment and being available for new work are stricter compared to being full-time unemployed. Therefore, **while some differences exist, the (dependent) self-employed can choose to have exactly the same social security as employees**. Consequently, social security is not one of the elements that creates a disadvantage for the dependent self-employed.

### 2.3.3 France

The social protection system in France distinguishes between employees and self-employed, and also between agriculture on one hand and crafts, commerce, manufacturing and liberal professions on the other hand within the group of self-employed, with both groups having separately managed system with similarities. Within the latter group, the liberal professions follow the same rules yet are also managed separately. The actual regime (employee/self-employed) depends on the legal form of the company or certain conditions. Craftsmen who are the director with a majority shareholding of a limited liability company are covered by the RSI (Social Security Regime for the Self-Employed) as self-employed, but if they are the director of a limited company or the director with a minority shareholding of a limited liability company then they are covered by the general social security regime. Artists and authors can be covered by the general regime (through a specific scheme) or counted as self-employed (Eurofound 2010).

Table A2 (see Annex) provides an overview of the social security provisions in France for each group. Despite the social security being managed through different schemes for the employed and self-employed – with further distinctions among the latter group – often the same rules apply. This is the case for general health care, invalidity, old age and accidents at work. The self-employed are less well off in long-term care and unemployment, which also applies for the dependent self-employed. **Given that dependent self-employment has not been defined in France, the dependent self-employed always fall under the same rules as the regularly self-employed.**

### 2.3.4 Germany

The German social security system was primarily based on the protection of employees' social rights. Self-employed were not typically covered by the system, while dependent self-employed were treated as dependent employees if reclassified along the criteria described above. However, **reforms have made most social security available for voluntary participation, making it possible for self-employed to reach a somewhat comparable level of protection**. Within the large group of self-employed, differences exist for craftsmen and retailers, farmers, artists and publicists. Certain profession also form separate associations with their own schemes.

Table A3 (see Annex) provides an overview of the social protection in Germany, indicating that the situation is only the same for all categories in terms of family benefits, health and long-term care. There is a general obligation to be insured against sickness and care risks. Protection against invalidity, old age and accidents at work is compulsory for employees and some groups of self-employed, but not for everyone. However, they are able to join on a voluntary basis.

**The difference between the employed and self-employed is most significant concerning insurance against unemployment**, where no specific scheme exists and the self-employment do not have the option of joining regulated unemployment funds. Dependent self-employment also has not been defined in this respect, and thus always falls under the same rules as the regularly self-employed.

### 2.3.5 Italy

Italy has a social security system with different schemes for self-employed. Agriculture, crafts and commerce have their own provisions, while special schemes apply to other groups of self-employed, such as workers in licensed professions and “free professionals” (pursuing professional freelance activities not directly regulated by public authorities). Finally, specific social protection provisions exist for the so-called “semi-subordinate” workers, the *Collaborazioni continuative a progetto* (Co.co.pro) and *Collaborazioni coordinate e continuative* (Co.co.co) (Tealdi 2011).

As discussed in Section 2.2.5, **most semi-subordinate workers fall into the category of dependent self-employed**, although they do not necessarily cover all factual dependent self-employed in the Italian labour market. Depending on the level of economic dependence and the degree of organisational autonomy, other self-employed workers can also be counted among dependent self-employed. Table A4 (see Annex) provides an overview of the social protection for employees, different categories of self-employed and semi-subordinate workers. There is evidently a clear difference between both the employed and the self-employed, with the latter not receiving unemployment benefits.

**Unemployment benefits were introduced for Co.co.pro workers** in recent years, although they pay a limited amount and involve very stringent requirements. A special system exists concerning disability benefits and accidents at work, comparable to the general system. However, **self-employed receive fewer benefits** or need more extensive requirements for sickness, maternity, family allowances and pensions. In particular, **social security contributions are much lower for self-employed than employees** (despite recent reforms gradually raising contributions rates of self-employed). This difference is reflected in the lower level of generosity of pension benefits for self-employed.

Semi-subordinate workers (Co.co.co and Co.co.pro) are slightly better off in terms of social security provisions than other categories of self-employed. The compulsory payment of social security contributions for semi-subordinate workers was introduced in 1995 (Law 335/95) through the creation of the INPS “Separate management fund”, in order to provide social security coverage to the workers of a rapidly growing segment of the labour market. Consequently, they enjoy rights concerning insurance against sickness, maternity, accidents at work and family benefits that are similar to those of employees (although benefits are usually less generous).

### 2.3.6 Slovakia

Slovakia has few differences between the types of workers in its social security system, with **both having access to almost all aspects of social security and following the same rules**, despite the contribution rate and method for the self-employed differing from the contributions of the employed. However, even following the same rules, **the received benefits** concerning health, sickness, old-age, invalidity and unemployment insurance **are less generous for the self-employed than for employees** (Eurofound 2010). This largely results from the lower social contributions paid by self-employed in order to increase their current net income.

Table A5 (see Annex) clearly highlights that **the scope of social protection is similar for all categories**, but with more stringent eligibility and with the significant difference within the field of accidents at work, where self-employed cannot be insured. Sickness insurance also differs slightly, with eligibility for benefits conditional upon the payment of insurance contributions over the previous 270 days. The self-employed can also receive unemployment benefits, yet only when not performing the self-employed activity and if they have previously taken voluntary insurance of the required length. The level of unemployment benefits depends on previous payments, which in the case of self-employed are often only at the minimum level required by law.

The special categories of self-employment are “contract for work”, “contract on work performance” and “contract on work activity”, of which only the latter two are truly recognised as **economically dependent self-employment**. However, their **social protection seems even lower than the one of self-employed**, as they are not entitled to maternity and parental leave, sick pay and unemployment benefits. Given that they only pay taxes on earnings and no contributions, they are not entitled to old-age pensions or disability insurance, unless derived from other employment (Eurofound 2010). Recently introduced changes in the social contribution system also entitle these kinds of workers to some social protection, and from January 2013 they are obliged to contribute to retirement, health and other forms of social insurance payments.

### 2.3.7 United Kingdom

The United Kingdom has **a general protection system that includes the self-employed in large parts**. For individual regulations, special requirements apply for the self-employed, although Missoc data for 2012 indicates no further distinctions within the group of self-employed persons itself. The main difference between employed and self-employed is based on taxation and the options available for self-employed to lower their income tax (Eurofound 2010). Table A6 (see Annex) provides an overview of the social security system, highlighting that few differences exist between the treatment of employed and self-employed. The main differences relate to sickness and maternity benefits, where self-employed cannot benefit from paid leave, as well as old-age pensions.

Moreover, they also do not qualify for a state earnings-related pension, and lack insurance against unemployment and accidents at work. **There is no clear definition of dependent self-employment**, and while some employment protection legislation has been extended to cover these kinds of workers, not all rights are covered. **Dependent self-employed workers make no or different kinds of contribution to National Insurance funds, and thus cannot receive certain non-means tested benefits** such as the additional state pension and contribution-based Job Seekers Allowance, received by employees. In addition, they cannot receive benefits that are paid by employers (and partially reclaimed through the state), such as Statutory Sick Pay (SSP) and paid adoption/paternity/maternity leave.

### 3. THE REASONS FOR DEPENDENT SELF-EMPLOYMENT

#### KEY FINDINGS

- The motives for being a dependent self-employed largely depend on the specific features of the industries.
- Important issues here include time flexibility, increasing autonomy and simplifying the work process, and rigid internal labour market structures and external pressures from the labour market.
- In comparison to employment, externalised workers face similar – yet less – control, more flexibility, tax benefits and often reduced legal liability.
- However, there are also workers who describe themselves as involuntarily involved in dependent self-employment due to a lack of other opportunities.
- The motives for employers deploying dependent self-employed workers are the (partial) transfer of entrepreneurial risk, gaining from economies of scope and scale, and circumventing labour and social security law, as well as regulation from collective bargaining and trade union representation, and solving the flexibility-control dilemma.
- The regulatory system (e.g. labour law, social security law, regulations focusing on self-employment) is pivotal for the increase in dependent self-employment.

The following chapter discusses the reasons for the increase in dependent self-employment, including the motives and characteristics of dependent self-employed workers (supply side) and for deploying dependent self-employed workers (demand side). Furthermore, it also discusses the institutional reasons for the increase of dependent self-employment, thus clarifying why this development has taken place.

#### 3.1. Motives and characteristics of dependent self-employed workers

Empirical research on the motives for supplying dependent self-employed work shows that issues of time flexibility, increasing autonomy and simplifying the work process play a crucial role, as well as rigid internal labour market structures and external pressures from the labour market (Muehlberger 2007).<sup>10</sup> Dependent self-employed workers stress that despite being tied to a principal, **self-employment increases both their time flexibility and autonomy**, providing them with greater control over the work process and how to do the job. However, **moving to dependent self-employment is often not a voluntary decision**. On the one hand, rigid internal labour market structures determine the possible labour market statuses within a firm, while on the other hand, tight labour markets increase employers' power to source out labour. The **establishment of a business that is "tied" to another firm is often associated with considerably lower costs**. Therefore, dependent self-employed workers who wish to become self-employed without investing a high amount of money or effort prefer a tied business relationship. Indeed, many dependent self-employed workers underline the simplicity of their work, with the possibility of determining the quantity of work and reduced control in comparison with an employment relation. Further proposed **motives include tax benefits and reduced legal liability**.

<sup>10</sup> Based on case study research in the insurance industry in Austria, Italy and the United Kingdom, the business service industry in Austria and Italy and the freight industry in Austria.

Being tied to only one company facilitates business cooperation and the content of work considerably, with interviews revealing that dependent self-employed persons are clearly more risk averse than their independent counterparts, esteeming the support of the outsourcing company. Despite wishing to be self-employed, they appreciate the support of their principles and the simplification of their work, and thus these dependent self-employed workers cannot be regarded as Schumpeterian entrepreneurs but rather as supported owner-operators.

Furthermore, in team or project-oriented sectors such as the business service sector, dependent self-employed workers stress that the **possibility of choosing one's working team** represents an important reason to voluntarily supply dependent self-employed work. Moreover, time flexibility was particularly stressed by workers with children and by those who are still in education. Additionally, project-oriented dependent self-employed workers highlight the **desire to realise their own ideas and receive more appreciation for the work conducted**. Many former employees complained about the hierarchy within firms and the lack of possibilities to fulfil their ideas. The **financial dimension** also proved to be of some importance in the decision to work on one's own account. Some dependent self-employed workers stress that they not only expected higher hourly wages, but also that self-employment would offer them **tax advantages** and the possibility of **working longer hours** to achieve a higher total income. Those who stated involuntary working as dependent self-employed stress that there was either no employed job available or that the company they contract with only offered the specific job on a subcontracting basis. Consequently, most of these workers consider their position as dependent self-employed workers being a temporary solution to avoid unemployment (Muehlberger and Bertolini 2008).

**Organizational restructuring** also plays a crucial role; for instance, companies decide to source out (part) of their workforce, workers often have to choose to either switch to another employer (or unemployment) or become self-employed. In that respect, becoming dependent self-employed is often not a voluntary choice. Comparing Austria, Italy and the UK, Muehlberger (2007) argues that the incentives to voluntarily move from employment to self-employment are strongly dependent on the social security and employment protection connected to the various labour market statuses. For instance, Austrian and Italian dependent self-employed workers claim that social security, fringe benefits and the compensation system for employed workers represent the main advantages of employment. Indeed, in contrast to the United Kingdom, the marginal benefits of employment compared to self-employment are higher in Austria and Italy. Overall, qualitative empirical research finds that dependent self-employment may also reflect the needs of workers. In contrast to the "entrepreneurial" self-employed (i.e. those who work for different clients/firms), dependent self-employment is associated with lower start-up costs and a simpler work process (in terms of coordination). In comparison to employment, externalised workers face similar (albeit less) control, more flexibility, tax benefits and often a reduced legal liability. However, there are also workers who describe themselves as involuntarily involved in dependent self-employment, owing to a lack of other opportunities (Muehlberger and Bertolini 2008; Muehlberger 2007).

Quantitative empirical research sheds light on the characteristics of dependent self-employed workers. Using the British Labour Force Survey, Böheim and Muehlberger (2009) consider the characteristics of **dependently self-employed individuals in the United Kingdom**, associating them with **more volatile labour market connections**.

For instance, those who worked part-time one year prior to the analysed period have a higher probability of being dependently self-employed than employees in the analysed period, and that those who had a supervisory role one year before are less likely to be

dependently self-employed. Married or cohabiting individuals are less likely to be dependently self-employed than those who are single, while workers who have long residential tenures are similarly less likely to be dependently self-employed than those with short tenures.

The same analysis shows that **dependent self-employment is not an absorbing labour market state in the United Kingdom**. Indeed, only a third remain dependently self-employed from year-to-year, while the remaining individuals changing to a different labour market state, with the majority (52 per cent) moving into “genuine” self-employment and 17 per cent becoming employees. Moreover, those who leave or enter dependent self-employment mostly do so due to changes in customer, rather than employee, numbers. This finding should prompt caution for those calling for an unconditional extension of employees’ rights to the dependently self-employed, given that some workers only temporarily appear in this category. However, there are **indications that dependently self-employed workers in the United Kingdom are pushed rather than pulled into this labour market status**. First, dependent self-employment in the United Kingdom appears to be a highly volatile labour market status, suggesting that it is considered and used as a transitional status. Second, the year-on-year analysis indicates that rather low-skilled workers – most likely those with little bargaining power – enter dependent self-employment. Böheim and Muehlberger (2009) argue that dependent self-employment in the United Kingdom reflects an example of entrepreneurship out of necessity, whereby entering or leaving the status of dependent self-employment is due to changes in customer rather than employee numbers. Accordingly, these are not growing businesses that are able to exploit business opportunities.

Empirical analysis of the **Italian** Labour Force Survey (Muehlberger and Pasqua 2009) shows that the **vast majority of dependent self-employed workers are not satisfied with the type of contract they hold**. Italian data shows a rather different picture of dependent self-employment in comparison to the United Kingdom, with dependent self-employed workers in Italy mostly young and highly qualified workers waiting for more stable jobs. However, it is also found that women working part-time have a higher risk of being dependent self-employed than employed or self-employed, suggesting that dependent self-employment offers women the possibility of working part-time. Employed part-time work is not widespread in Italy, given that it is a highly protected labour market form and thus expensive for firms (Del Boca et al. 2005).

Analysing year-to-year transitions, Muehlberger and Pasqua (2009) find a high short-term persistency of dependent self-employment in Italy, implying that these contracts are not a vehicle for more stable and better protected jobs. Therefore, dependent self-employment is not an instrument for young people to enter into the labour market, although many young and highly educated workers in Italy are still forced to accept this type of contract, which neither guarantees them flexibility nor job protection. These results suggest that in comparison to the United Kingdom, dependent self-employed workers in Italy are not used to increase the labour flexibility of low-qualified workers, but rather represent a means to deploy highly educated young professionals outside of the highly protected insider labour market. Such differences between Italy and the United Kingdom may be explained in the different set-up of the labour market regimes, given that unlike the United Kingdom, Italy has a strong insider–outsider labour market, with high labour market protection for insiders and weak protection for outsiders.

### 3.2. The motives to deploy dependent self-employed workers

As argued above, one important reason for dependent self-employment is the **transfer of (or part of) entrepreneurial risk** from the outsourcing firm to the dependent self-

employed worker. However, transferring (part of the) entrepreneurial risk does not represent the only motive for externalising parts of the work process, given that these contractual arrangements also **transform fixed costs into variable ones**, allowing the outsourcing firm to gain financial flexibility. Another pivotal rationale is to **circumvent labour and social security laws**, particularly in highly regulated labour markets. The outsourcing firm faces fewer legal constraints of employment protection in terms of working time or security, given that most employment protection laws are not applicable in such work relationships. Moreover, it does not have to pay social security contributions and does not bear the financial risk when the worker becomes ill, and the worker is usually beyond the scope of collective bargaining and trade union representation. With these work relationships based on private contracts rather than employment contracts, there are fewer regulations restricting the contractual arrangement, allowing contracts that are customised to the special needs of the outsourcing firm. In contrast to short-term labour contracts, which also increase labour flexibility by facilitating the hiring and firing of employees and also enhancing market discipline, dependent self-employment based on business rather than labour contracts invalidates large parts of labour law. Consequently, legal scholars argue that dependent self-employment undercuts laws that are designed to protect workers (Sciarra 2004; Freedland 2003; Perulli 2003; Supiot 2001; Davies and Freedland 2000).

In other words, **institutional constraints such as labour and tax regulations may drive such work relationships**. Analysing the Spanish construction industry, González et al. (1998) show that increases in the tax burden and legal restrictions in the variability of wages produce an incentive to source out workers to financially optimise labour under a new regulatory regime. Moreover, additional institutional constraints are derived from industry-specific regulations; for instance, based upon an international comparison of the construction industry, Bosch and Philips (2003) show that industry-specific policies (e.g. employers licensing regulations and building codes) play a pivotal role in the outsourcing decision. In the case of the United Kingdom, Harvey (2003) demonstrates that the deregulation in the construction industry has led to a strong increase in dependent self-employment, while similar arguments are proposed in Dex et al. (2000) for the UK media industry and Muehlberger (2007) for the Austrian insurance industry.

Another rationale involves **extending the control function of management across organisational boundaries**. Accordingly, by mixing governance structures, firms are able to benefit from the advantages of outsourcing without losing control over workers and assets (as previously argued in Child 1987 and Williamson 1984). Simultaneously, the outsourcing firm increases the incentives for effort and asset maintenance. In other words, by creating close (hierarchical) ties, the outsourcing firm improves the trade-off between incentives (typically linked to market transactions) and control (typically linked to employment) (Muehlberger 2007). Muehlberger and Bertolini (2009) provide comparative qualitative research in the Austrian and Italian insurance and business service industries, arguing that dependent forms of outsourcing allow firms to profit from financial and numerical flexibility, simultaneously mitigating the problems usually connected with outsourcing, such as losing control over the worker and their lower commitment. Firms have established a complex set of managerial controls over outsourced workers through both formal and mainly informal contracts that bind the worker closer to the firms.

Muehlberger and Bertolini (2009) also show that informal rather than formal relational contracts govern the actual form of cooperation. The actual organisation of the work relationship (i.e. how the work is done, supervised, etc.) is not written down in formal contracts, but is rather developed by on-going cooperation, creating “relational” contracts. The authors argue that managerial control over dependent self-employed workers establishes hierarchical structures similar to employment relationships, thus creating dependency. However, they have also found substantial differences, both between the

industry and to a lesser extent between countries. For instance, managerial control is lesser within the business service industry than the insurance industry, owing to various reasons (see Muehlberger and Bertolini 2009 for a detailed analysis).

### 3.3. Institutional reasons for an increase of dependent self-employment

The preceding analysis has demonstrated that **the regulatory system is pivotal for the creation of dependent self-employment** with circumventing existing employment and social protection laws representing one of the main reasons for its increase. Cross-country empirical research highlights that regulations that **increase social and labour market protection for certain groups of labour market participants may increase dependent self-employment** as firms have an incentives to find “cheaper” and more flexible ways to deploy labour. For instance, when new regulations in Austria increased the social security protection of free service contractors and the subsequent costs of deploying them, employers increasingly replaced them with contractors of work and services or “regular” self-employed workers. In Italy, for example, dependent self-employment seems to be a possibility for women to work part-time since employers are reluctant to employ part-time workers owing to the relatively high costs. Thus, regulations that increase the costs of part-time work may also increase dependent self-employment in labour markets where part-time work is relatively more expansive for employers<sup>11</sup>.

These examples show that regulators face the difficulty that labour market and social security protection laws increase the incentives for firms to circumvent these laws by sourcing out their staff on a “tied” basis. Further incentives for the creation of dependent self-employment come from the institutional regulation of self-employment. Regulations that facilitate the access to self-employment such as low entry costs/barriers and tax laws that advantages self-employment persons in contrast to employees also create incentives for workers to move into (dependent) self-employment or for firms to source out their staff. Thus, **dependent self-employment reflects a response to strict labour market regulations and increasing costs of social security payments for employed staff**. However, structural change with more flexible production modes and the development of new flexible models of labour organization within firms are also pivotal to explain the increase in dependent self-employment. Although qualitative empirical evidence establishes a link between an increase in labour market protection and the costs for social security and the rise of dependent self-employment, it is methodologically not possible to establish a causal link between certain protection measures and quantify the rise of dependent self-employment due to missing data. Additional influence comes from intra-EU mobility. Particularly in countries that closed the labour market for workers from most of the new Member States until recently, dependent self-employment was used to undergo the labour market access restrictions as the free movement of services allowed the establishment of businesses (see also Chapter 4).

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<sup>11</sup> However, Robson (2002) analysed the question of whether stricter employment protection legislation promotes self-employment for the OECD countries, concluding this not to be the case.

## 4. CASE STUDIES ON DEPENDENT SELF-EMPLOYMENT IN SELECTED INDUSTRIES

### KEY FINDINGS

- European trends highlight different sector dynamics, with differing situations for the dependent self-employed. The sectors identified as the most vulnerable to dependent self-employment are construction, insurance, accountancy, transport and the creative sectors, within which the use of (dependent) self-employed seems to be rising, according to stakeholders.
- However, the characteristics of these self-employed are very different. In sectors such as insurance and accountancy, and sometimes the creative sector, dependent self-employed are relatively well-off, while self-employment in sectors including construction and transport dependent more often leads to abuses.
- Prime motivators of dependent self-employment across countries include the avoidance of paying contributions for both employers and self-employed. It is often a conscious choice, also by former employees, for a gain in independence or income.
- The construction sector was examined in Austria, France, Germany, Italy, Slovakia and the UK, with self-employment seemingly rising, yet not exponentially. Subcontracting represents one reason, in order to ensure flexibility and autonomy, while increasing numbers of migrant workers also explains the rise in self-employment. Dependent self-employment can also rise accordingly, motivated by mutual financial gain.
- The creative sector was analysed in Austria, Denmark, France, Germany and the UK. However, given the sector's size, no single image can be deducted, although it appears that dependent self-employment is often a form of employment for young people to enter the sector, because the subsectors know steep competition and work is often project-based. As the sector is growing, so is the use of self-employment, both genuine as well as dependent.
- The insurance and/or accountancy sectors have similar traits, and were examined in Italy and Slovakia. Here, the use of independent agents often leads to dependent self-employment, owing to the tie with a single company. Agents receive benefits that other dependent self-employed can rarely claim in other sectors, based upon a mutual dependence.
- The transport sector in Europe is also confronted with rising self-employment, much of which can be deemed as dependent self-employment. In the examined case of France, self-employment, including dependent self-employment, seems to be limited, due to a domestic orientation. This shows the strong national differences within the sector. However, whether Europe or France, the precarious position of dependent self-employed drivers is applicable to all self-employed, because both groups are vulnerable to violations of labour law and face a difficult bargaining position. Dependency might not be the determining factor, because it cannot always be easily established.

This chapter focuses on the specific practise of dependent self-employment, presenting a number of sectoral case studies across 7 European countries. Accordingly, these case studies will discuss the prevalence, causes and organisation of dependent self-employment to show the different forms taken across sectors and countries.

## 4.1. Empirical research design

In this section, we investigated the situation of dependent self-employment in the selected countries (Austria, Denmark, France, Germany, Italy, Slovakia and the United Kingdom). For each country, the national experts selected out of the following sectors:

- Construction sector
- Logistical and IT sector
- Insurance sector
- Creative sector/designers/architects
- Accountancy sector

The selection was made according to the relevance of the sectors in the respective countries. Semi-structured interviews were conducted with representatives of interest organisations (mainly trade unions and employers associations). On the basis of these interviews and additional research on the organisation of employment in the selected industries, the national experts analysed the prevalence and characteristics of dependent self-employment, examining the reasons for it in the various industries and investigating its organisational governance. More specifically, they discussed the governance of dependent self-employment along the following dimensions when possible:

- Control mechanism: by which mechanisms is the work of dependent self-employed workers controlled by the employers? In terms of place and content of work?
- Amount of commitment: how do employers ensure the commitment of work?
- Degree of flexibility: do the dependent self-employed workers have flexibility in fulfilling their tasks?
- Degree of dependency: are dependent self-employed workers personally and/or economically dependent on their employers?
- Industrial relations and dependent self-employment: how are industrial relations organised and/or changed by the prevalence of dependent self-employed workers?
- Where possible, the national experts investigated wage differences between employees and dependent self-employed workers.

## 4.2. Trends in the European sectors

### 4.2.1 The European construction sector

Around 15 million people were employed in the European construction sector in 2007, representing a peak in employment in the sector, with labour input indicators of Eurostat for 2012 pointing to a reduction of the workforce of around 20% to 12 million workers. An **estimated 14% of the population of workers in the construction sector are self-employed** (Jorens, 2008), although the share of self-employed persons active in the sector varies across countries. Differences are found ranging from almost 80% self-employed workers in the Netherlands, either with or without own employees, to 50% self-employed workers in the UK, and only 25% in Belgium and 21% in France for 2007 (Jorens, 2008).

**The construction sector entails a number of specific peculiarities**, largely based upon the reality that construction is often awarded to a main employer that in turn uses several subcontracts. In some cases, this can lead to a number of subcontractors creating a cascade where it is difficult to identify the responsibilities of each subcontractor and fulfilment of the social obligations to workers.

This has several causes: The construction sector is flexible by nature, where the need for specialised skills, number of workers and the use of equipment is dependent on the contract. Given the possibility of delays, this prompts the need of flexible work contracts. The Netherlands and the UK are prime examples of extensively using such types of employment. Indeed, the use of self-employment has risen in all countries, according to stakeholders.

Both employers and employee organisations recognise the **main driving force towards genuine self-employment of workers within the construction industry as the desire for entrepreneurship and self-determination and expectation of a higher net income** (by diminishing taxes and social contributions), even at the expense of less social protection (Jorens, 2008). However, it can also be motivated by company practices, aiming to reduce labour costs. In some cases, workers are even forced to change towards a self-employed status. As a means of avoiding social contributions and labour regulations, dependent self-employment implies 'false' or 'bogus' self-employment and creates unfair competition between companies. Extensive subcontracting can facilitate this phenomenon by reducing liabilities for the original employer.

Another phenomenon that enhances the rise in both self-employment and false self-employment is the **increasing number of self-employed migrant workers in the construction sector**, especially from Central and Eastern Europe. For instance, in the Netherlands, 80% of the self-employed workers in the sector are estimated to be migrant workers. Moreover, almost all self-employed in Sweden are migrants. Employers and workers organisations note that migrant workers are likely to enter the labour market as self-employed workers (Jorens, 2008), with difficulties in controlling labour conditions and social security contributions for migrant workers, especially in cross-border activities, contributing to the rise in false self-employment.

#### 4.2.2 The European transport sector

While the European transport sector can be divided into several subsectors, including road, boat and rail transport, this research adopts a **main focus on road transport**. In Europe, the sector of road transport employs around 9 million people, of which 2.7 million were in freight transport in 2007 (Lodovici, 2009). Amongst these are a substantial number of self-employed workers. Road transport comprises several economic activities such as freight transport, courier services, individual transportation such as taxis, and other logistical activities. **The number of self-employed in this sector** is difficult to estimate for the EU as whole, but social partners indicate that it **is substantive**, from one in every six workers in Denmark and Germany to one in three in countries such as Belgium and Poland, and even almost 98% in the Czech Republic (Eurofound, 2007). The number of self-employed appears to be rising, but not exponentially, because some employers do not consider self-employment an option given that the company has to maintain liability over the transported goods and its own assets (e.g. the vehicles).

The sector has its peculiarities, with **freight transport often involving cross-border activities**. Coverage of national labour law and the enforcement of responsibilities therefore is a contentious issue. In some countries, all drivers are thus covered by national regulation (e.g. Portugal), while in others the European agreement concerning the work of crews of vehicles engaged in international road transport applies (AETR). Self-employed workers have some distinct advantages in terms of labour law, which makes the sector vulnerable to dependent self-employment. Employers seeking to **cut costs** sometimes fall back on the conversion of their employees into self-employed workers.

Self-employed workers can for example **more easily avoid the Working Time Directive**, despite legislation implementing the directive having been broadened to cover self-

employed workers in some countries. This makes the use of dependent self-employment tempting, as it means both a reduction in costs due to social contributions and fewer restrictions on the use of the self-employment workers. In some countries, the use of self-employed workers in the sector is seen as unfair competition, even more so when concerning dependent self-employment.

Dependent self-employment takes different forms, e.g. working for the same company using a personal vehicle or hiring a vehicle of the employer as a self-employed worker. However, in either such case, the dependency of the worker is very distinct, with little control over the worker's own time schedule. It is difficult to provide a **number of dependent self-employed drivers**. According to a projection of the European Commission, 31% of drivers were self-employed in the EU-27. The Commission estimated that up to 50% of them may be dependent and thus false self-employed, thus equating to 15.5% of all drivers being dependent self-employed (Lodovici, 2009). **They are more likely to be in worse working conditions and are economically more at risk**. Many self-employed are in a difficult negotiating position, with pressure on costs from clients and a large number of competitors, with migrant workers also playing a role here. While wages in the sector are relatively low to the EU-15 standard, the profession attracts workers from Central and Eastern Europe, sometimes without residing in the country of the company.

#### 4.2.3 The European Accountancy sector

**The accountancy sector is entirely different from those previously discussed**, and employs around 700,000 people in Europe (FEE, 2012). While the sector might seem more homogenous, it also harbours differences between activities such as pure accountancy and auditing and financial advice. For each of these activities, the business models vary between large firms (especially the so-called 'Big four') and the small single person accountants. National requirements and definitions also vary, thus providing for a differentiated landscape.

**Self-employment within the sector can take two distinct forms**, either sole practitioners, a one-person company accountant which provides services mostly to small local companies, or senior profiles in auditing and accountancy firms who become self-employed. Often these senior self-employed remain providing services through their previous firm. **Self-employment is generally a personal choice** reflecting a personal (or sometimes legal) need for independence. Tax benefits are often more interesting for self-employed, and a move towards self-employment is not seldom linked to different role identities (e.g. independent auditor).

Both groups contain persons who could be classified as dependent self-employed workers in specific cases. These could be self-employed accountants working for a single firm rather than an internal accountancy department, or consultants dependent on a single firm for their contracts. However, in practice this is difficult to establish. Sole practitioners are rarely dependent on a single firm, with larger firms tending to conduct business with large accountancy firms. Consultants are often self-employed in a later phase of their career, thus lessening their economic dependency. This **makes it hard to identify real dependent self-employment**.

#### 4.2.4 The European insurance sector

The European insurance sector is divided into several types of insurers, with life- and non-life insurance representing the most important distinction. While the sector directly employs around 950,000 people in Europe (Insurance Europe 2011), there are no single definitions for professions. Typical professions can be brokers, agents or bank assurance, working either independently or within companies and banks.

The sector has its own characteristics in each country. **Insurers work through various distribution channels, including directly** through employees or distant selling, **through intermediaries** such as tied or independent agents and brokers, **or through bank insurance**. Italy (84% in 2006), Turkey (70%) and Slovenia (67.5%) have high shares of agent as distribution channels, while agents hold a share greater than 50% in six countries (Italy, Poland, Portugal, Slovenia, Germany and Turkey) and more than 30% in another 11 countries. The exact number also depends on the subsector (life or non-life insurance) (CEA, 2010).

Therefore, **self-employment adopts a large share of employment within the sector**. Much depends on the most cost-efficient channel in each country. Within the group of self-employed agents or brokers, **tied agents are most vulnerable to dependent self-employment**, given that they work exclusively with a certain insurance company, selling only their products. Consequently, they are completely dependent on one company yet are not employees. This provides benefits for the company in terms of costs, and for the self-employed in terms of contributions and flexibility.

A further element in the discussion is the **general difficulty for insurers to find personnel**, due to demographic challenges. This forces companies to invest more in their agents through direct premiums and additional training, partially compensating for the dependency of the self-employed agent and providing them with benefits that self-employed do not commonly enjoy. For instance, agents often receive support in IT services, administration and other company assistance. In the case of tied agents, the liability for products and the professional conduct of the agents lies directly or indirectly with the company, making it important for the employer to ensure quality.

#### 4.2.5 The European creative / graphical design sector

The sector of creatives and graphical design is the broadest of the selected sectors, and also the most difficult to define. It is therefore very difficult to provide an accurate employment figure for this group. It can be stated that **6.5 million people are involved within the European cultural and creative industries**, which partly overlaps the sector (Power, 2011). It has close ties with the printing and publishing industry, yet also encompasses major newspapers, broadcasting companies or the public sector, e.g. with theatres or opera houses, with respect to cultural professions.

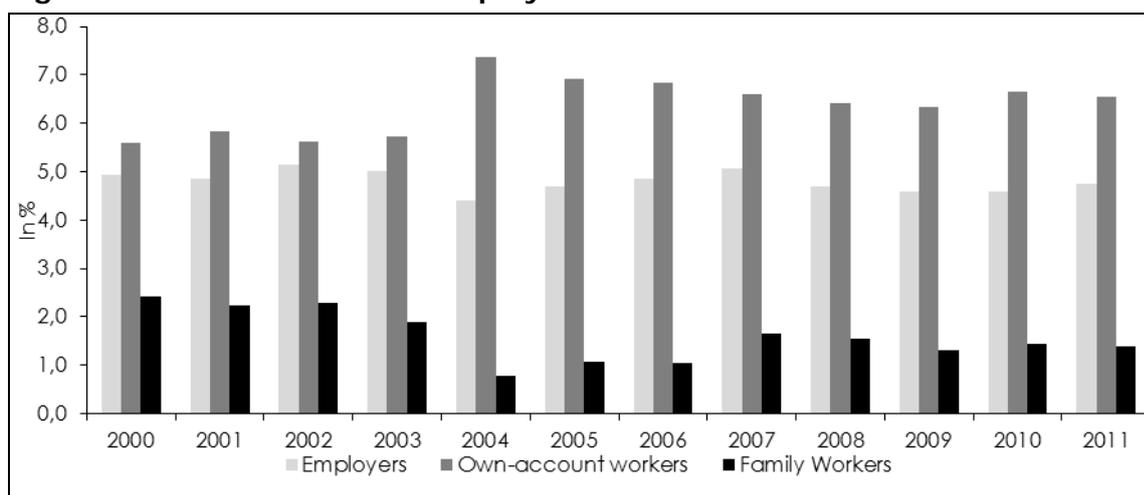
**This sector involves many self-employed, mostly freelancers**, with professions ranging from translators, designers, editors to copy-writers and others. These are professions focused on specific tasks that companies presently do not incorporate into the fixed staff but rather outsource to either specialised companies or independents. Self-employment in these sectors can represent a **method of flexible work and choosing the own working time**. In some cases, it is combined with a study or other activities, as the persons involved are generally younger than the general employed population.

Fulfilling a number of independent tasks means that **income can vary considerably**, which makes it interesting for the self-employed workers to create links with certain companies to ensure a steady workflow. While this creates a greater chance of work, it also increases the dependency of workers on a limited number or even single company. The business is very competitive, with many tasks that do not require physical contact but rather can be completed via digital communication, making many self-employed price-takers in a European and sometimes global market.

### 4.3. Austria

Overall, **the share of self-employed workers in Austria has remained relatively stable over the past decade** (approximately 13% of all employees are self-employed). While the share of self-employed with employees hardly changed between 2000 and 2011, the number of family workers declined from 2.4% to 1.4%. At the same time, an expansion of own-account workers was noted, which increased their share by one percentage point to 6.6% in 2011<sup>12</sup>.

**Figure 1: Numbers of Self-employment in Austria 2000 to 2011**



**Source:** Eurostat, lfsa\_egaps.

**Note:** Employers: Self-employed persons with employees. Own-account workers: Self-employed persons without employees.

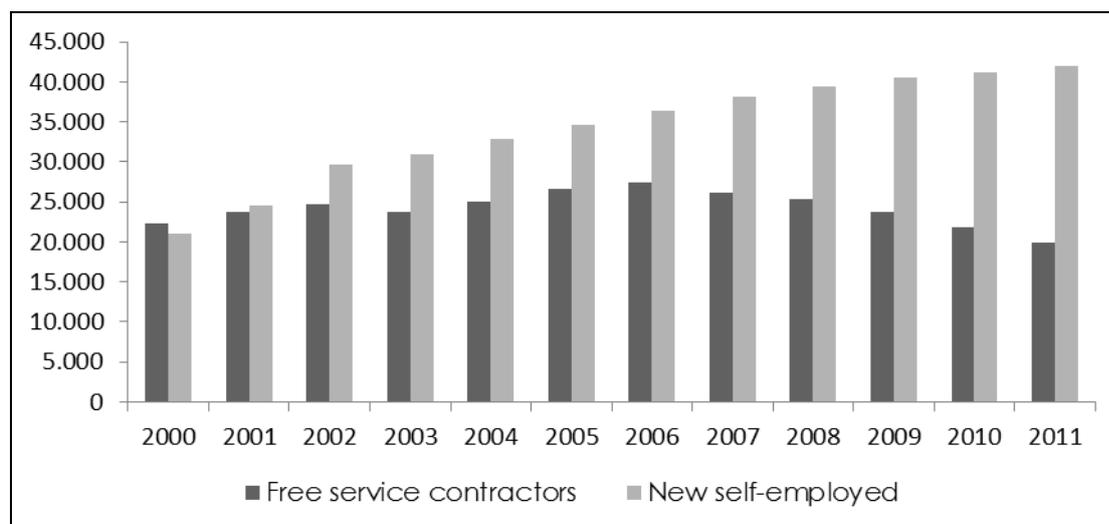
#### 4.3.1 Occurrence of dependent self-employment in Austria

Dependent self-employment occurs in various ways, either in hybrid employment categories ("new self-employed", "free service contractors" or "contractors of work and services") or as own-account workers. While trade union membership in Austria is voluntary, all employees (including free service contractors) are obligatory members of the workers' association (*Arbeiterkammer*). On the other hand, **all self-employed workers are obligatory members of the employers' association** (*Wirtschaftskammer*).

As shown in the following graph, the number of free service contractors decreased between 2000 and 2011, after reaching its highest level in 2006, while the number of "new self-employed" workers steadily increased, doubling from 21,000 in 2000 to 42,000 in 2011.

Together with the rise over time in own-account workers, this development indicates that **the number of dependent self-employed workers is increasing**. One reason for this is recent legal change that implies that free service contractors are treated similar to employees, thus making this employment type less attractive to employers.

<sup>12</sup> Notice that there is a break in the time series between 2003 and 2004. The spike in the share of own-account workers in the year 2004 should therefore be interpreted with caution.

**Figure 2: Numbers of “Free Service Contractors” and “New Self-employed” 2000 to 2011**

Source: Austrian Social Security Data.

**The high level of workers’ protection in Austrian labour law, as well as the social security regulations and collective agreements imply incentives for employers to outsource tasks.** Besides the lower costs implied, many parts of labour law do not apply for formally self-employed workers (such as working time restrictions, vacation entitlement or notice periods). Therefore, **dependent self-employment allows for a flexible adjustment to demand-fluctuations.** In some parts of the economy, dependent self-employment has also been used as a way to circumvent the regulations concerning the free movement of labour in the context of the EU enlargement process.

#### 4.3.2 The construction sector

There are around 274,000 employees working in approximately 31,000 firms in the Austrian construction sector<sup>13</sup>. The share of one-person firms (own-account workers) is approximately 35%, compared to 55% on average across all sectors<sup>14</sup>. Given that free service contractors are rare in the construction sector, most potentially dependent self-employed workers are own-account workers organised within the employers’ association.

Despite the absence of figures on dependent self-employment within the construction sector, both the trade unions and employers’ associations state that **the numbers of dependent self-employed have been increasing over the last years.** The issue of dependent self-employment has recently gained more attention within the Austrian Construction and Wood Workers’ Union (*Gewerkschaft Bau-Holz*), with the main concern that the **increasing numbers of dependent self-employed comes at cost of regular jobs** and therefore affects the employment prospects of workers. At the same time, dependent self-employment bears the risk of undercutting labour law and thereby may deteriorate working standards.

The increase in dependent self-employment is associated with an increase in the relevance of the so-called “free professions” (*freie Gewerbe*) in the construction sector (Reindl-Krauskopf et al. 2012). **Becoming self-employed in these professions does not require any qualification certificate**, which means that these professions are weakly regulated. Therefore, it is easy to register as self-employed.

<sup>13</sup> Statistics Austria, Leistungs- und Strukturstatistik 2010

<sup>14</sup> WKÖ Mitgliederstatistik 2011

**Dependent self-employment in the Austrian construction sector is also linked to the regulations concerning the free movement of labour in the context of the EU enlargement process.** When the new Member States joined the EU in May 2004, the Austrian government opted to seal the labour market for workers from most of the new Member States until May 2011. At the same time, the free movement of services came into effect for all new Member States, implying that self-employed workers could conduct business in Austria whereas regular employees could not. **This unequal legal treatment of self-employment and dependent employment implied great incentives to deploy foreign labour in the form of self-employment.** In this context, the employers' association reports that workers from the new Member States regularly contact potential employers in Austria directly – often even in whole teams – and offer their services as dependent self-employed. **Even after the transition period, the number of dependent self-employed workers seems not to have significantly declined** (Reindl-Krauskopf et al. 2012). It rather appears that dependent self-employment has become a common employment type in the construction sector, since firms have learned about the potential benefits from this flexible form of employment.

**The reason for employing dependent self-employed workers** in the construction sector is clear cut: dependent **self-employed workers are less costly**. Additionally, there are no lay-off constraints, which allows for a more flexible adjustment to demand fluctuations. **Dependent self-employed workers are generally continuously rehired as long as they perform well.** Especially in times of weak economic performance in the neighbouring countries, there is a large potential supply for qualified workers. This implies that workers are easily replaced, which creates incentives for dependent self-employed workers to fulfil their work according to the rules of the employer in order to be rehired. Moreover, employers sometimes also introduce piece-work elements into remuneration, which reduces the cost of controlling the work effort. Regarding the income situation of dependent self-employed workers, **there appear to only be minor differences in hourly wages compared to regular employees.** However, the fact that dependent self-employed workers do not qualify for special payments (holiday allowance) clearly reduces the wages of dependent self-employed compared to regular employees. Inspections at construction zones show that most workers are paid according to the collective bargaining agreements, despite around one third of all foreign (yet not necessarily dependent self-employed) workers being underpaid (BMAKS).

#### 4.3.3 The creative sector

The creative sector<sup>15</sup> is characterised by a high share of own-account workers and small firms with fewer than ten employees. In 2008, 63% of all firms in the creative sector were own account workers (compared to 37% in the whole economy), and another 33% of all firms (52% in the whole economy) employed fewer than ten employees (Voithofer et al. 2010).

**The workforce within the creative sector is very heterogeneous**, and includes highly trained workers in highly regulated professions as well as a large number of workers in “free professions” that do not require any formal qualification certificate. Dependent forms of self-employment, atypical employment and network based production forms are increasingly common within many parts of the creative sector (Schiffbänker and Holzinger, 2008).

<sup>15</sup> The creative sector consists of architecture, design, music, books & artistic occupations, radio & TV, software & games, publishing, video & film, advertisement, libraries, museums as well as botanic and zoological gardens (Voithofer et al. 2010).

As with the construction sector, the increasing prevalence of dependent self-employment in the creative sector has recently gained attention within the Austrian trade union. **The situation of younger workers' employment prospects within the sector raises particular concerns**, since most jobs offered are in the form of (dependent) self-employment and are often associated with precarious working conditions and a higher income uncertainty. The trade union also reports that many dependent self-employed workers are not able to pay their social security contributions. The **reasons for working in the form of dependent self-employment** in the creative sector are **partly driven by the lack of job opportunities associated with regular working conditions**. It appears that **especially younger workers are unaware of their legal rights**. There also seems to be little control of working conditions. For example, the collective agreement for filmmakers defines certain tasks as obligatory performed by employees, but in many cases are outsourced to dependent self-employed workers. Particularly in the field of "media", Austria shows a very low number of potential employers that increasingly outsource parts of their production to dependent self-employed workers.

**An important factor** in the prevalence of dependent self-employment **is the structure of the sector, with mostly very small firms prone to relatively high competition**. This creates incentives for employers to avoid fixed costs and hire free service contractors on a project basis. A representative of the employers' association also argues that **the desire to work as self-employed is much more pronounced within the creative sector than in other sectors**. This is also reflected by the increasing number of network-based production units, where several self-employed persons share an office and subcontract work to each other in varying teams. Thus, the distinction between self-employed worker and subcontractor becomes blurred, while workers may also profit from these production forms by expanding their networks and regular exchange. Older workers in the creative sector particularly seem to prefer self-employment over regular dependent employment.

**From the employers' perspective, dependent self-employment is associated with clearly lower costs**. The relatively high competition among employees and the high degree to which workers in the creative sector identify themselves with their work makes it **easy to hire workers on short term contracts without making formal concessions for longer term employment relationships**. This is reflected in relatively short employment durations (with contracts typically made on a project basis). At the same time, these working conditions **imply high incentives for workers to perform well** in order to get hired for future projects, with employers consequently benefitting by replacing parts of their fixed costs with variable costs. **The distinction between private networks and business networks within the creative sector often becomes blurred**. Therefore, dependent self-employed workers have a high incentive to perform well in order to avoid receiving a negative reputation.

## 4.4. Denmark

### 4.4.1 Occurrence of dependent self-employment in Denmark

Dependent self-employed is not formally defined in Danish law. **The self-employed is by law implicitly referred to as independent, therefore legal dependency for self-employed is formally non-existent.** This means that the national agencies for statistics and tax do not recognise the dependent self-employed as a group, and thus no official statistics are produced to separate those with a dependent relationship to one employer. The data available on these groups is therefore extracted from studies on the atypical labour markets, and by interviewing those few agencies who have included the freelancers as a group or have thematical tracking on the freelancers' situation. However, **it should be noted that only a limited amount of information exists in terms of the dependency issues of self-employment.** One reason may be that the magnitude of the dependency issue is limited.

The data indicates that **dependent self-employment exists in most sectors, and is also rising in numbers.** There is a strong representation of dependent self-employment in the creative and IT sectors, with a high degree of human resource specialisation. These formally self-employed workers are usually referred to as freelancers or external consultants. Given that freelancers fall between the 'normal' employees and self-employed with own business, Danish law sometimes categorises them as self-employed, whilst in other matters such as tax laws, sick leave etc., they are perceived as employees. We will explore self-employment in two large sectors in Denmark – the creative sector and the IT sector<sup>16</sup>. **The main reasons for becoming a freelancer or consultant are wishes for independence and flexibility regarding working hours.** Some choose to become self-employed due to unemployment or as a way to make them available for part-time contracts. However, only a fragment of the self-employed seem to be fully dependent on only one employer although many deal with only few customers on a regular basis. It should also be noted that **those who work more than 8 hours a week for one employer are entitled by law to the rights under the employers act.** According to the labour unions, the challenge is that many freelancers are not sufficiently aware of their rights. Meanwhile, others are aware of them yet are afraid of executing their rights in fear of losing contract opportunities.

### 4.4.2 The creative sector

**The creative sector in Denmark has risen dramatically in the last three decades,** and today involves a large mixed group of artists, journalists, film-makers, etc., with the sector counting the highest number of self-employment in Denmark. Several studies suggest that between 10-20 % of all employment in the creative sector belongs to self-employed freelancers, and that this share is rising. **The creative sector is traditionally considered as a sector with many independent agents.** Independence and high risk taking is an important part of the artists' self-understanding. This means that **self-employment is a positively valued concept,** indicating competence and independence. Therefore, it is important to stress that some of those dependent self-employed belong to an "elite" - they have developed a sufficient reputation in the business to have a continuous flow of orders, even with a single employer.

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<sup>16</sup> The IT sector was traditionally linked to the logistical sector in Denmark, because of the linkage to the tele sector. However, today, most of the sector is identified within the service and financial sector. Therefore, for the purpose of this study, the IT sector is considered to fall under the logistical sector.

**Besides these “elites”, freelancers are a mix of sub-groups with different reasons for being dependent self-employed.** These count a young group of entrepreneurs who wish to be self-employed as part of their lifestyle, while others include graduates threatened by unemployment. Furthermore,, there exists a senior-aged group that feels pressed by the employer to freelance. In Denmark, **some self-employed are registered as employees, while others as one-person companies.** The latter group dominates the creative sector, but up to a third may be registered as employees. Many of those registered as self-employed have a bi-income as an employee. The majority of the creative freelancers have a longer educational background. However, their weak social and economic protection as compared to normal employees moves them into the category of outsiders. **Most self-employed are members of trade unions,** which exist for each art specialisation. Others are organised in the larger cross-sector labour unions, which now are establishing specialised sections for self-employed. Owing to this division between the two groups – employees and self-employed – there are differences regarding how each trade union direct their awareness, policies and services towards this group.

Despite the large share of self-employment within the creative sector, **the prevalence of dependent self-employment is not widely discussed** either in media or in connection to the collective bargaining processes. However, the unions have become increasingly aware of the group’s rights and situation, several of the larger unions having conducted member surveys to shed light on the new atypical labour market forms. The **main motivating factors for becoming self-employed** in the creative sector are the independence and flexibility themes. This is particularly true for the so-called “elite” group. However, the non-elite group also tends to be motivated by the hopes of becoming independent and flexible, as well as earning higher wages than the labour market bargaining agreements. Furthermore, the non-elite groups are also driven by the fact that they would be otherwise unemployed. The sector has increasingly seen situations where the employer has decided to end the permanent contract and instead suggested the person becoming self-employed with part-time work at the same company. The Danish “flexicurity-model” may even encourage the employers to this, given the low job-contract termination periods - usually only three months – and the lack of additional costs.

**The main motivations for the employers** involve reducing costs and increasing flexibility. Both the self-employed without employees and freelancers/employees in the creative branches are not covered by normal collective agreements, and thus are not entitled to receive social benefits such as maternity leave, pay during sickness and labour market pension. Besides the cost-reduction, the increase in production flexibility has also become increasingly important. The full employment situation in Denmark of the past decade has made it apparent for some employers that externalising core workers may have a serious downside. The pool of knowledge generated from work is externalised, offering the freelancer a strong bargaining position. Combined with increasing difficulties to replace the staff, this makes companies increasingly hesitant to outsource. Some companies, however, tend to ignore these concerns in the midst of the financial crisis, which gave rise to a stronger focus on the cost-side and increasing unemployment. The freelancing **creative worker faces some specific challenges** including:

- High contract-fluctuations
- Less access to career or seniority wages
- Loss of holiday pay
- Loss of maternity leave
- Loss of in-house courses and training
- Isolation for in-house social networking activities

Firstly, their **annual income fluctuates much stronger than in other sectors.** This may primarily be because many freelancers work less than full hours, yet also because the

wage-fee is combined with many different types of fees, making it difficult to compare with the ordinary labour market. Secondly, **their high frequency of job-shifts means that many completely lose the career or seniority dependent wage.** Moreover, it is widespread within the creative sector that **freelancers work on un-signed oral agreements.** The consequences of high job fluctuation combined with informal job arrangements are manifold. One such effect is that around **two fifths amongst those self-employed in the creative sector have not established an occupational pension scheme.** Those who have established a scheme have had to put aside between 10 and 17% of their annual income in order to uphold the same pension level as their employed colleagues.

Furthermore, despite the employer's act providing the right for earning holiday pay for the first five weeks, **high job fluctuation often means a loss of this holiday pay,** and especially of the holiday pay for the sixth week of vacation, which in Denmark is a right upheld by the bargaining system. Furthermore, **not being permanently employed means that the workers lose the right to participate in paid courses and labour training.** Finally, the externalisation often means that companies omit them from social activities and networking. Overall, there is **widespread agreement between the parties that self-employment means less income,** compared to the level in permanent work contracts.

The self-employed in the creative sector usually have a very flexible time frame for executing the work. It is rare that the employer makes special arrangements to ensure commitment. Deadlines and milestones and work content are usually defined in the contract agreement, and a work-plan usually exists. However, as the arrangements are focused on the product, the control is focused on the results. Therefore, the quality of the result becomes the issue of negotiation, and it is then the freelancer's bargaining power that will decide how many hours spent will be taken into account in the final salary.

#### 4.4.3 The IT sector

The issues in the Danish IT sector are largely similar to those mentioned in the creative sector. The IT sector in Denmark is characterised by a large group of small agencies and some large companies with a large share of IT staff, such as project managers, IT consultants and programmers. As in the creative sector, the IT workers are better educated in comparison to the rest of the population. While the term of self-employment is widely known, the **usage of self-employed contractors in the relatively new IT sector is different.** A self-employed within the IT sector is usually referred to as an "IT consultant", with this group consisting of company registered consultants and time-based employees, hired directly or through temp-agencies.

**The culture within the IT sector is dominated by an understanding of being independent, mastering entrepreneurship and taking a high degree of risk.** This culture was hit hard by the financial crisis, as the risk-taking and chance for scoring fast money on a good idea disappeared when the large IT companies turned into cost-oriented strategies. Another tendency within the IT sector has been that **many self-employed now seek access to common network platforms, sharing the cost of administering and contracting.** This means that some have received support in securing their pension and holiday pay, with these platforms having developed standardised contracts.

As with the creative sector, **the prevalence of dependent self-employment is not openly discussed,** either in media or in the large companies with a large IT-staff and with a tradition for re-hiring staff as self-employed or full time. However, the issue has gained some public attention in the press in the past decade, and the unions indicate that they have become increasingly aware of the group's rights and situation within the last few

years. As with the creative sector, the main motivating factor for the self-employed involves the theme of independence. In addition, the entrepreneurial issue is also a strong argument.

Besides the sectors' motivation for high fees, entrepreneurship and flexibility, the wish of IT consultants to enter permanent contracts has risen with the employment rate, initiated by the blast of the IT bubble in the late-1990s. The tendency was repeated in connection to the financial crisis, with many of the contracts with the consultants halted. Furthermore, the unions have observed an **increasing concern from the IT consultants of being pressured on wage, rights and flexibility from the employers**. The **main motivation for the employers is to reduce costs and increase flexibility**. There is a clear indication that IT consultants' wages fluctuate strongly in periods of both growth and recession, although no indication exists as to whether these fluctuations mean that their income in the long term is higher or lower than regular employees.

## 4.5. France

### 4.5.1 Occurrence of dependent self-employment in France

The National Institute for Statistics and Economic Studies (INSEE) counted 2.3 million self-employed workers in France in 2006, which represents **around 9% of self-employment in total employment**. This includes liberal professions, agricultural workers and management in industry, commerce and other activities. A rise in the number of self-employed was noticeable in 2004, following years of steady decline. **The group of self-employed or 'independents' is very heterogeneous**, in size of their enterprise, qualifications and revenues. Their income was on average €30,400 a year in 2002, increasing to €36,400 in 2005 in non-agricultural activities (INSEE, 2009). **The attitude towards self-employment in France is not very positive**, with it often seen as a form of precarious work, particularly owing to the limited scope of social protection. However, a survey of the Eurobarometer found that around half the respondents in France would prefer self-employment (European Employment Observatory, 2010).

There are several reasons why both businesses and individuals would prefer working with or as a self-employed worker. **For businesses, working with self-employed workers represents a method of cost-effectiveness on several levels**. Employers in France face amongst the highest social contribution charges for their employees (on average 42%), which creates a large difference between work conducted by employees or subcontracting to self-employed workers. Therefore, large enterprises are tempted to use conversion to self-employment to lower costs (Lurton, 2007). **Labour law in France has a number of regulations that apply to companies depending on their size**, with the leap from 49 employees to 50 bringing particular additional requirements to the enterprise. An enterprise with 50 employees or more in France is obliged to introduce working councils, profit sharing and, if necessary, restructuring plans (INSEE, 2009). This has a distortive effect, making employers seek for alternatives such as starting new companies and outsourcing of tasks.

For **individuals** becoming self-employed has long been a difficult task, due to **high social taxes and the complexity of the system with administrative burdens**, as exemplified by a low survival rate of 50% of businesses after five years. This hurdle has been **partly addressed through the introduction of the auto-entrepreneur status** in 2008 (European Employment Observatory Review, 2010). The new system has been highly successful, increasing from 290,000 new 'businesses' registered in 2009 to 450,000 in 2010. However, only 40% of the auto-entrepreneurs declared a positive turnover by 2009, with an average monthly income of only EUR 775. The government has constantly

advertised taking **self-employment as a method of (re)gaining employment**, which is also shown in the high number of businesses started by previously unemployed persons (40% in 2009).

The **social charges for the self-employed workers are generally lower than those for employees** as employer contributions are avoided, but the **social benefits are also less generous**. The 2008 reforms and creation of the Social Regime for the self-employed (RSI), which is compulsory for self-employed workers, have partly improved this situation. However, some self-employed workers are actually dependent self-employed workers, either through circumstances or design. There are several forms under which this may occur. Genuine self-employment has been defined by national law through common rules concerning contracts for enterprises. The scope of self-employment concerns all people who perform work for someone else, in exchange for a wage, in an independent manner and with their own means and tools. Thus, the **main criterion to define self-employment is the absence of subordination** (Gineste, 2008). In law, two categories exist in determining 'concealed labour', which also encompasses dependent self-employment in the form of false self-employment (Kahmann, 2006).

- The 'concealment of activity'
- The 'concealment of an employment relationship'

Given that there is no obligation of a written labour contract, workers can find themselves in a dependent relation to their employer or classified as self-employed. However, when it is determined in court that the worker works under conditions similar to a labour contract it is classified as dependent employment. Subcontracting is another way of creating dependent self-employment. By law a subcontractor cannot simply be a provider of material or a provider of labour.<sup>17</sup> When self-employed workers are employed only using the material from their employer, they are not legal subcontractors. While exact figures are not forthcoming, figures for all sectors showed that 0.21% of all violations by companies concerned dependent or false self-employment in 2005 (Gineste 2008). However, this low number in itself does not provide much information, as it might be either due to a low occurrence of the phenomenon or to the difficulty of detecting and proving the dependency of the self-employed workers. Owing to the French labour code, **false self-employment is considered as genuine self-employment, unless the contract has been reclassified as dependent employment.**

#### 4.5.2 The construction sector

The latest full figures from the national institute of statistics and information about the economy (INSEE) on the construction sector show that 1,823,745 people were employed in the construction sector in 2009, including both directly employed and self-employed workers.

The number of self-employed, including own account workers and self-employed with employees, was 367,314. While this number might have diminished since then owing to the effects of the crisis, **the sector remains an important employer in France, with self-employed representing around 20% of total employment in the construction sector**, which has not really changed during recent years (Jorens, 2008). It is important to note that the sector consists of two sub-sectors: general construction (Bâtiments) and public works (Travaux publiques). Especially in the subsector of public works, the impact of self-employment is limited due to the nature of the tasks, which are too large to be handled by small one-man companies. In the general construction subsector there are many

<sup>17</sup> This is not the case for temporary work agencies.

possibilities for specialists or self-employed workers to be employed on a construction site, handling specific tasks.

It is very **difficult to estimate how many of these self-employed should be classified as dependent self-employed workers**. As dependent self-employment is in violation of the labour code, it depends on the inspection to find cases of labour law violation or false self-employment. There are no figures available for the sector to offer an estimation of the phenomenon. In 2007, over 70,000 companies were inspected in the National Plan against illegal work, including a number of construction companies (22%). In total, 9.7% of those companies were charged of violations, of which 4% were linked to the incorrect use of a labour status. These violations include the occurrence of false self-employment, but this being just one of the possible abuses, makes it difficult to estimate the full scale of the problem, particularly as there might be large differences between sectors. It seems that there was not a substantive increase in the occurrence of dependent self-employment in the period up to 2009 (Gineste, 2008).

While the construction sector has grown, **the share of self-employed workers has remained relatively stable**, which points to certain limitations on the use of self-employed workers. Part of the explanation lies in the fact that the employment rise can be largely attributed to a number of large companies; for them the burden of additional employees is often less than for small companies who have greater difficulty in complying to labour regulation and thus want to limit the number of directly employed workers. **The sector also experiences difficulties in recruiting skilled labour**, due to its ageing labour force. Therefore, hiring employees directly represents a better means of ensuring the loyalty of workers within a competitive market. However, when economic activity is weak as in 2011 and 2012, the focus might lie more on a reduction of labour costs, which favours self-employment freeing small companies from labour regulation and making them more flexible to respond to the market.

Migrant workers are often self-employed. Under the free provision of services, they cannot be considered workers under French labour law. Because of lower social security contributions and taxes in their country of origin, they undercut local suppliers. A report from the French Senate in 2006 did not deem the impact of this type of workers substantive, although more up-to-date figures are unavailable. Both employers' federations and trade unions are aware of the problem, with the use of false self-employment leading to negative effects for the sector, thus affecting employees and employers. **The use of bogus self-employment is unfair competition to companies following all legal standards**, offering (often unprofitable) companies a way to cut into their margins and outcompete regular companies. Furthermore, the image of the sector is tarnished by stories of exploited workers and bad working conditions for false self-employed workers, which makes recruitment more difficult.

In order to address the problem, initiatives were taken as early as 2005 by drafting information for employers on subcontracting and undeclared labour, endorsed by both the employers' federations and trade unions<sup>18</sup> (Kahmann, 2006). Other initiatives such as a pass for each worker on the site with the social security number have been tested. Yet given that the self-employed do not fall under the scope of the trade unions, the effect is that **the dependent self-employed have no formal representation within the process of social dialogue**.

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<sup>18</sup> Sous-traitance et travail illégal dans le BTP. Que dit le droit? La charte du BTP.

### 4.5.3 The transport sector

The road transport sector is extensive in France, representing a substantial part of employment. For this report, we **focus on freight transport** as the situation in each subsector differs considerably. In recent years, employment has grown from around 300,000 workers in 2000 to 350,000 in 2006, spread over 41,500 companies. The number rose up to 2008, after which a decrease in employment has been noted. However, **the French transport sector is very domestically orientated**. While France represented 14% of the total market share of 17 European countries in 2003, it only accounted for 5% of international traffic (Artous, 2003). A large share of the French transport firms comprises small to medium enterprises. While self-employment in the transport sector in Europe is estimated to account for 19.5% of all employment, this figure is much lower in the case of France, with an approximation made using the notion of unpaid labour, namely labour subcontracted to self-employed workers in the form of services. Accordingly, the percentage of unpaid labour and thus self-employed labour in the transport sector is around 3.6%. (Lodovici 2009). **As self-employment is low in the sector, dependent self-employment is also limited**. Large companies make extensive use of subcontracting, but mainly to other small firms and less directly to self-employed drivers. Sometimes, these subcontractors create a chain where fees that make up for 15% of the original budget are withheld. In some cases, these lead to self-employed workers only owning their own truck or even using those of the company, clearly indicating the existence of dependent self-employment (Bernadet, 2008).

The **motives for employers to switch to self-employment** are strengthened by the financial crisis, with the sector in France experiencing a downturn of 29% in 2009. Together with the fact that the wage cost for drivers are higher in France compared to all other European countries, the **incentive to use self-employment to cut labour costs** increased. The labour cost of a driver was 33,700 Euros in 2006, representing 39% of operational costs (Lodovici 2009). For long distance drivers, this was 45,960 Euros in 2011 (Giret, 2011), representing 35%. **When using subcontracting to lower costs, subcontracting to dependent self-employed implies a level of compensation that cannot cover costs if the worker follows all road and labour regulations**, thereby implicitly forcing the subcontractor to break the law (Bernadet 2008). This leads to a continuous discussion regarding where to place the liability of infractions, namely only the perpetrator or alternatively with the employer, or even with the client.

**The profile of the sector partially protects it from an inflow of dependent self-employment**. The domestic orientation implies less transnational traffic, better control on the drivers and an orientation towards national recruitment. The practise of working with employees rather than self-employed workers remains pre-eminent, despite subcontracting being well established. However, one threat to the sector is the **ageing profile and the lacking attractiveness**, which **makes recruiting increasingly difficult**, with the Fédération Nationale des Transports Routiers (FNTR) noting that only 54% of employees are less than 40 years old. Consequently, it **might be necessary to increasingly rely on foreign subcontractors**, which are often migrant self-employed drivers. **The work organisation of the self-employed is similar to those of dependent employed** with the occurrence of abuses in both cases. In particular, the working time initiative is not always respected. Depending on the personal situation, the drivers have flexibility over their own work, yet with strict deadlines and fees they can be forced to work longer hours than permitted. It is very difficult to distinguish clear wage differences between the groups. As self-employed workers are not registered with trade unions, and especially in the case of migrant workers, it is difficult to extract direct information.

#### 4.5.4 The creative sector: graphic design

While the creative sector in France is large, the number of workers that can be classified accordingly is impossible to estimate due to the nature of the definition. However, several professions and subsectors exist. For France, **the subsector of graphical designers has been studied**, which includes editors, layouters and other professions in the graphical sector, representing around 20,000 people. These professions used to be practised in the status of 'worker at home' (salaré à domicile), which is a form of dependent employment. It was increasingly used by high skilled workers for professions requiring only digital contact, establishing some sort of tele-work relation. These workers received a contract and were regulated as dependent employees, including social contributions and labour regulations. They usually had contracts of limited duration, sometimes with multiple employers. In August 2008, a new status, the **auto-entrepreneur**, has been created. This **is a form of self-employment that is increasingly used as a method for both individuals and employers to cut costs**. As the worker is now self-employed, the relationship with the employer is a commercial relationship, releasing the employer from its social contributions. This is often achieved together with giving the auto-entrepreneur a higher fee, thus also raising their income. However, this also means a fall in social contributions for social security, as well as providing less protection to the auto-entrepreneurs who receive less benefits and less protection than in their status as employee. The commercial relationship established with the previous employer is also less durable. Certain work volumes and compensation might be initially agreed upon, yet due to the strong competition in the sector, the employer can easily lower the rates or change to another auto-entrepreneur. When a worker at home makes the transition to auto-entrepreneur, they also need to pay for their own materials, which were previously compensated by the employer. In 2013, the social contributions for the auto-entrepreneurs will be raised to be equal to those of other independents. **The auto-entrepreneurs are not truly represented within the unions or employer federations of the sector**. For the auto-entrepreneurs, a different federation exists, the 'Fédération des auto-entrepreneurs', which encompasses all entrepreneurs and makes no distinction by activities or profession. As such, it only represents them on a global level, focussing on their status and rights as auto-entrepreneurs as opposed to sector-related peculiarities or problems.

### 4.6. Germany

#### 4.6.1 General assessment

While reliable data on dependent self-employment in Germany is not available, the empirical relevance of dependent self-employment can be approximated by referring to data on self-employed persons without employees based on representative labour force surveys, in particular the German Microcensus, and also the German Socio-Economic Panel. This data source provides empirical information on core individual characteristics of self-employed without employees such as age, gender, education, income, status stability and mobility. However, **a distinction between 'real' self-employed and 'bogus' self-employed is not feasible with this data**. Based on studies by Brenke (2008, 2011a, 2011b), self-employment without employees has undergone major sectoral and occupational change in recent years. Although stagnation has been observed, regarding insurance intermediaries, retailers, crafts people and taxi drivers, **self-employment has increased significantly in a larger number of occupations**, particularly in creative occupations, cosmetics, old-age care, IT consulting and the construction industry. Out of these, **we focus here on the creative occupations and construction sector**, as they effectively illustrate the highly diverse logic of dependent self-employment at different skill

levels. **Both sectors share that access to permanent and dependent employment has been largely insufficient in matching labour supply.**

Existing data on self-employed without employees generally shows that earnings of those self-employed are on average much lower than those of entrepreneurs with employees and are more in line with dependent workers, although **earnings dispersion is much greater among the self-employed than between different groups of employees** (Brenke 2011b). Data for 2010 on the median household net equivalent income shows self-employed without employees received 1,500 EUR, whereas wage earners received 1,570 EUR and entrepreneurs 2,000 EUR per month. Some self-employed without employees combine their earnings with income from other sources available in the household context, such as spouse's earnings, pensions, unemployment benefits, parental leave benefits or earnings from a second (i.e. dependent) job. **Self-employed without employees also tend to save less than entrepreneurs, and thus run a risk of old-age poverty.**

Regarding policies at the national level, **active labour market policies to support start-ups have played a major role in expanding the number of self-employed**, including small start-ups and potentially dependent self-employed. The start-up support schemes reformed and expanded with the Hartz reforms were of particularly importance for some years from 2003/04, leading to the creation of a large number of small businesses. Most notable was the so-called 'Existenzgründungszuschuss' or 'Ich-AG' (literally 'Me Inc.')

scheme created to incite the unemployed to launch a small own-account activity. With the promotion of self-employment in the context of the labour market reforms of 2003, the strict operationalisation of the criteria for 'false' self-employment came to an end (see section 2.2.4 above). In Germany, there has recently been more public attention paid to the phenomenon of sub-contracting work via contracts for work labour ('Werkverträge') to supplier firms who send their employees to user companies in order to perform some tasks on-site. This has been observed in manufacturing, but also in construction, retail trade and slaughterhouses. In some cases these workers are formally self-employed, but work under the authority of the user company. Trade unions see the objective of reducing fixed labour costs as a main interest of employers resorting to contract out certain tasks (DGB Bundesvorstand 2012).

#### 4.6.2 The creative sector

Regarding causes and reasons for the variation in the prevalence of dependent self-employment across sectors, a distinction has to be made between particular sectoral employment logics and motivations. Given an increasing supply of highly skilled young labour market entrants in the creative sector, the apparent lack of vacancies for permanent or temporary dependent employment with large traditional employers such as major newspapers, broadcasting companies or the public sector, e.g. with theatres or opera houses, with respect to cultural professions has contributed to the **increasingly widespread phenomenon of freelance work in this field**. This also relates to a change in the human resource strategies of both private and public large and small companies in creative activities, as they increasingly try to **maximise flexibility and reduce fix costs** by keeping permanent core staff to the absolute minimum and contracting out all services to more or less dependent self-employed creative workers. Furthermore, the dynamically changing market conditions in journalism, design, arts, also characterised by the fundamental change of the digital revolution, set strong incentives to organise business in a highly flexible and adaptive way and keep fix costs for permanent staff small.

Currently, **around 40% of all persons active in creative occupations are self-employed** – with no specific information available on dependent self-employment. This share is higher in larger cities such as Berlin, where 53% of all creatives can be classified

as freelancers (Mundelius 2009a and 2009b). **Data on income from creative activities shows average earnings significantly below the German average**, and at the same time, a strong income dispersion so that **economic dependence and vulnerability can be seen as a widespread phenomenon**, especially when creative workers do not have a sufficiently large network of potential clients yet rather depend on a few potential customers (Mundelius 2009c, Pfaller 2010). Nonetheless, creative professionals have a strong motivation to enter and remain in this field, and are willing to accept the economic uncertainty attached rather than entering a permanent position as an employee outside the creative sector (Brenke 2007, Mundelius 2009a).

In fact, **dependent self-employed in the creative industry tend to enjoy more autonomy regarding their work than dependent self-employed in other sectors**. This also refers to the actual work process that is largely organised independently, also involving autonomy regarding place and time of work in many cases and breaking the clear distinction between work and leisure (e.g. working with unusual working time patterns) (Mundelius 2009c). However, some creatives certainly underestimate the competition in the market and the marketing skills required when entering the profession, also overrating the demand for creative output and their own earnings potential (Pfaller 2010). **Dependent self-employment in creative occupations also tends to be combined with other forms of employment and sources of income**, in particular when the household composition is taken into account. Many creatives cannot make their living purely based on their core creative activity, and also benefit from income from other sources such as secondary or main jobs or the income of other household members (Haak 2008, Brenke 2011b, Pfaller 2010).

#### 4.6.3 The construction sector

The situation in the construction sector exhibits both similarities and stark contrasts with the creative sector. As with the creative business, major employers started to reduce their core staff and tried to contract out actual construction work, initially to domestic subcontractors, but later also to foreign ones in order to **save on wage and non-wage labour costs, circumvent binding sectoral minimum wages, collective agreements on working time and other elements of labour law** such as paid vacation or sickness leave which are seen as major parameters determining the competitiveness of construction firms. With this business model becoming increasingly widespread in the construction industry, pressure on firms to cut prices and labour costs by **shifting more and more of the economic risk on workers** further increased (Dürig et al. 2004).

Over the years, **complex cascades of subcontractors have been established**, operating at price levels that can only be realised using formally self-employed workers. Dependent self-employed construction workers, often undeclared migrant workers, operate at a lower level of these contractual hierarchies and conduct most of the actual construction work. However, higher level subcontractors and intermediaries appropriate part of the budget, and, according to expert assessment, are significantly better off than the dependent self-employed without performing construction-related work, except for transferring orders and payments.

**The dependent self-employed find themselves in a most vulnerable situation due to lack of alternative jobs and clear dependence on the assignments offered by the intermediaries**. Moreover, they also compete with totally illicit workers. Self-employed migrant construction workers, many coming from the CEE countries, often take up these jobs to avoid unemployment or poverty in their countries of origin, as even low net earnings in Germany may be more attractive than realistic wage offers in their home countries. Therefore, despite inferior earnings in the German context, **labour supply is**

**sufficient to run a business model relying on self-employed migrant workers.** Commitment is ensured by economic dependency and day-to-day monitoring of the performance of the self-employed on the construction site. It also appears to be the case that the remuneration of dependent self-employed construction workers is cut if there are real or pretended defects in the work performed. As with the general situation in Germany, **there is no reliable data on the extent of dependent self-employment in the construction sector.** While trade union officials estimate that about one fifth of all construction work in Germany is performed by dependent self-employed, there is no information on the income situation of dependent self-employed construction workers in Germany.

Here, policy reforms also play a role, given that **the massive increase in own-account construction workers** in Germany was not only stimulated by the start-up support available to unemployed workers but **is also partially related to the liberalisation of German crafts regulation.** In many occupations the requirement of having a Master craftsman diploma ('Meisterbrief') was lifted, leading to strong growth in the number of registered firms consisting of only one person without dependent employees (Dürig et al. 2004). At the same time, the criteria to reclassify dependent self-employment as employees were diluted.

Furthermore, **the massive inflow of construction workers as self-employed from Central and Eastern European countries in the period until May 2011 was a direct consequence of the closure of the German labour market to full mobility of workers,** whereas the freedom to provide services was already granted since the accession of their countries of origin to the EU in 2004.

Referring to the German legislation on the definition of dependent employment and criteria to reclassify self-employed workers as dependent, which would particularly imply full liability of employers and workers to pay social security contributions, in the construction sector **there are major enforcement issues.** First, dependent self-employed have a weak economic and legal position and only limited interest in being reclassified as dependent workers as this would threaten their job and earnings. Second, on-site monitoring by German anti-fraud authorities tends to be insufficient, with the administrative procedures involving the social insurance bodies tending to take too long, particularly given the mobile nature of construction activities and the large share of migrant workers. Therefore, **payment of social security contributions can hardly be enforced.** Third, the several layers of subcontractors add an element of intransparency and blurred responsibilities, and consequently very few lawsuits have materialised in recent years. As a result, **both local and migrant self-employed workers are basically excluded from all social security schemes and worker protection rights in labour law.**

## 4.7. Italy

### 4.7.1 Occurrence of dependent self-employment in Italy

To assess the empirical relevance of dependent self-employment in Italy, we use the 2011 micro data from the Italian Labour Force Survey (LFS). The data makes it possible to identify those who are formally self-employed yet work with a high degree of subordination. According to the official ISTAT definition, self-employed workers are not employed by an employer, and can be classified as:

- Collaborators (i.e. "co.co.co" and "co.co.pro");
- Entrepreneurs;

- Free professionals (“liberi professionisti”) which include licensed professionals as well as people pursuing professional freelance activities;
- “Lavoratori in proprio”;
- Occasional collaborators.

The rough data indicates that **self-employed workers in Italy account for 25% of total workers**. There is huge variation across sectors, reaching a peak in the construction sector and the insurance/finance sector, with 38.9% and 26.5% respectively. These two sectors are emblematic in Italy, owing to the high relevance of self-employment and some peculiarities in terms of labour organisation.

Table A7 (see Annex) provides basic descriptive statistics on dependent self-employment in Italy and the two selected sectors in particular. **Self-employed constructors and workers in the insurance/financial sector differ significantly in terms of the most prevalent type of contract**. Overall, free professionals represent 21.3% of the Italian self-employed workers. “Lavoratori in proprio” are the highest share of the Italian self-employed workers (60.3%).

Considering job arrangements and the aspects related to labour organisation with self-employed workers, it becomes apparent that **an extremely high share of self-employed workers has only one employer**, which may result in a form of economic dependence. In particular, the average share in Italy is 28.8%. Subsequently, considering aspects related to hierarchical subordination, it emerges that 34.3% of all self-employed workers do not decide the place of work and 15.7% do not decide the work hours. There is no consensus on the definition of dependent self-employment. Following Muehlberger and Pasqua (2004), dependent self-employment can be defined in three ways. First, self-employed workers are workers with only one employer. The second definition introduces two additional criteria to the first definition, namely that dependent self-employed cannot autonomously decide over their working hours and working location, and thirdly that they are, in addition, collaborators. Depending on the adopted definition, figures change significantly. In particular, **almost 29% of all self-employed workers in Italy have only one employer**. Around 6.3% of all dependent self-employed workers can neither determine their place of work nor their working hours, whereas 1.3% of all dependent self-employed people work as collaborators (Table 8).

**Table 8: Dependent self-employment incidence in Italy**

	% relative to self-employed workers
Def 1: Self-employed workers with only one employer	28.8
Def 2: Self-employed workers with only one employer and who cannot decide their place of work and work	6.3
Def 3: Collaborators	1.3

**Source:** Italian LFS 2011

In Italy, the **social security funds differ depending on occupational categories of self-employed workers**. The general regime managed by the National Social Security Institute does not apply to a number of groups (free professionals, lawyers, consultants, doctors, etc.) who can define their own social security regulations (Eurofound, 2010). Starting with the 1995 pension system reform, **a special and separate social security fund has been created for economically dependent workers**, with the aim to hinder the use of this form of contractual relationships to circumvent the regulations on the payment of social security contributions for dependent employees, thereby reducing labour costs<sup>19</sup>. Subsequently, dependent employer-coordinated freelance workers have adhered to a new INPS (Istituto nazionale di previdenza sociale, the National Social Security Institute) fund, called “gestione separate”. This fund grants minimum social assistance to those workers not covered by any compulsory pension scheme.

**Italian trade unions are strongly involved in representing dependent self-employed workers and particularly the economically dependent workers**. The three main confederations, Cgil, Cisl and Uil, founded special structures in 1998 to represent atypical workers, including dependent self-employed workers<sup>20</sup>. Some specific company-level agreements on these workers have been signed.

They are also represented by the Independent Commerce and Service Workers’ Union (Coordinamento lavoratori autonomi commercio e servizi, Clacs), despite the union having a more general representational domain among non-dependent self-employed. Instead, **the so called ‘liberi professionisti’** (i.e. free professionals) such as advocates, doctors, journalists or architects **are excluded from collective and firm agreements**, working time regulation, protection in case of the firm’s insolvency, holiday regulation and equal treatment regulation. Some self-employed can also fall back on employer organisations. Despite recent changes **dependent self-employment workers** (collaborators as well as freelance professionals) **are still not subject to substantial parts of labour protection and social security laws that are guaranteed to employees**.

#### 4.7.2 The sector of insurance and finance

In this section, we focus on dependent self-employed workers in the insurance and finance sector<sup>21</sup>. Similar to other “knowledge sectors”, the financial sector has experienced significant changes in the work structure and organisation in recent years. Data indicates that **the majority of workers are professional freelancers**. There is a dual labour

<sup>19</sup> It is worth saying that this fund has been created also to acquire new sources of social security contributions to improve the financial sustainability of the public pension system.

<sup>20</sup> Nidil - Nuove identità di lavoro, Alai - Associazione lavoratori atipici e interinali, and Cpo - Coordinamento per l’occupazione dei lavoratori atipici

<sup>21</sup> We follow the Istat Classification of Occupation CP2011, considering the following codes: 332, 251, 333. <http://www.istat.it/it/archivio/18132>

market within the sector: while highly experienced workers perform managerial positions and have sufficient bargaining power to obtain their most preferred contract; young professionals are only offered certain types of contracts, with less favourable conditions. Considering the three definitions, the dependent worker status within the insurance and financial service sector is mainly related to economic dependence. Table A8 (see Annex) also shows some demographic characteristics of self-employed workers, according to the three proposed definitions. Workers in a stricter condition of dependence are younger and more educated than workers who are only economically dependent. Moreover, the percentage of male workers is lower among self-employed workers with only one employer than among collaborators and those who cannot choose their place and hours of work.

Compared to the Italian average, data indicates that **the monthly wage for dependent self-employed in the financial sector is higher** (1764 euro versus 1256), with the same true for the weekly working hours (39.3 versus 37) and the hourly wage (11 versus 8.6). As highlighted in the literature, **dependent self-employed workers in this sector appear not to be used to increase the labour flexibility, but rather as a low cost alternative to deploy highly educated young professionals**<sup>22</sup>. These considerations are supported by findings from a research by Accornero, Altieri and Oteri (2001), with almost 30% of the Italian enterprises stating to deploy collaborators mainly due to labour cost reduction and only secondarily to increase labour flexibility.

On the other hand, **self-employment is perceived by workers as a possibility to increase their flexibility and autonomy**. A survey conducted by IRES in 2011<sup>23</sup> shows that the majority of the self-employed workers in the insurance and financial service sector consider themselves, relative to dependent workers, having a better organisation of working hours, more opportunities of training and career advancement, as well as greater autonomy and flexibility. At the same time, **most self-employed workers in this sector report to have weaker social protections, lower salaries and higher tax burdens than their dependent counterparts**.

In the sector **there is a clear distinction between those who voluntarily choose this form of work and those who became dependent self-employed involuntarily**. While the former are typically highly experienced workers benefiting from flexibility and lower control; the latter are generally young professionals recently entering the labour market, with dependent self-employment representing their only entry access into the labour force. The widespread **use of dependent self-employment puts firms in the need to adopt innovative solutions to deal with the risks deriving from these contractual arrangements and the lack of control**. Muehlberger and Bertolini (2008) underline that companies adopt two solutions within the Italian insurance and finance sector: firstly, the common introduction of hierarchical elements in the work relationship; and secondly, the application of informal relation contracts. Primarily, **support and control mechanisms** help to mitigate the principal-agent problem. The employer can use regular reviews of the work through meetings and customer surveys. Another way to bind the self-employed is through firm-specific expertise, particularly for young professionals. Second, **informal relation contracts play a crucial role in incentivising workers to provide high quality work**. Professionals with short-term contracts have high incentives to ensure high commitment and performance to renew the contract. **Another control mechanism is represented by informal networks of professionals**. They typically act as a source of information about the performance in past transactions and the reliability of potential candidate.

<sup>22</sup> Muehlberger U. & Pasqua S. (2011), "Workers on the Border between Employment and Self-employment".

<sup>23</sup> Di Nunzio, D., Ferrucci, G. and Leonardi, S. (2011) "Professionisti: a quali condizioni?", Rapporto di ricerca n.03/2011.

### 4.7.3 The construction sector

In Italy, about **39% of the workers in the construction sector are self-employed**, which is a significantly higher proportion than the EU average. Most of them are self-employed with no employees. Considering the three definitions, in the construction sector the dependent worker status is related exclusively with the economic dependence. In particular, 11% of self-employed workers have only one employer, whereas only 1.7% and 0.6% would be considered dependent self-employed according to the second and the third definition. Considering demographic characteristics of self-employed workers, we observe that almost all of them are male and workers in a stricter condition of dependence are older and slightly more educated. On average, the sector is characterised by a low incidence of part-time workers. Compared to the Italian average,<sup>24</sup> which includes the entire employed part of the population in Italy, the data indicates that the monthly wage for dependent self-employed in the construction sector is lower (EUR 1.155 versus EUR 1.256). Within the construction sector, several occupational categories of self-employed workers have special social security funds. Separate funds particularly exist for free professionals such as engineers and architects. Ales and Faioli (2010) highlight that in recent years, labour inspectors, tax inspectors and social partners have identified a **significant increase of dependent self-employed workers in the construction industry**. Self-employment has been promoted as a driving force for economic development. Economically dependent workers are concentrated in small enterprises that use these contracts for their flexibility in order to face demand shocks and seasonal peaks. In medium size and large enterprises, there is a higher incidence of typical employee contracts. Employing self-employed workers has been used by both public and private firms as a **less expensive alternative to fixed-term and permanent contracts** since they are not subject to substantial parts of employment protection and social security laws. In particular, employers indicate that the main advantage is in terms of reduction of cost of payroll taxes, administrative costs, wage liabilities and obligation to bargain with unions.

**Another reason** reported for using dependent self-employed workers is the **increasing decentralisation of production** that fostered the growth of atypical employment. For all these reasons the use of such contracts has increased in the last years within the sector, also according to the social partners. In Italy it is extremely simple to open a VAT number and enter the building market. Employees and dependent self-employed workers in the construction sector perform the same activities on average without any visible distinction, and therefore no specific control mechanisms are put into place.

## 4.8. Slovakia

### 4.8.1 Occurrence of dependent self-employment in Slovakia

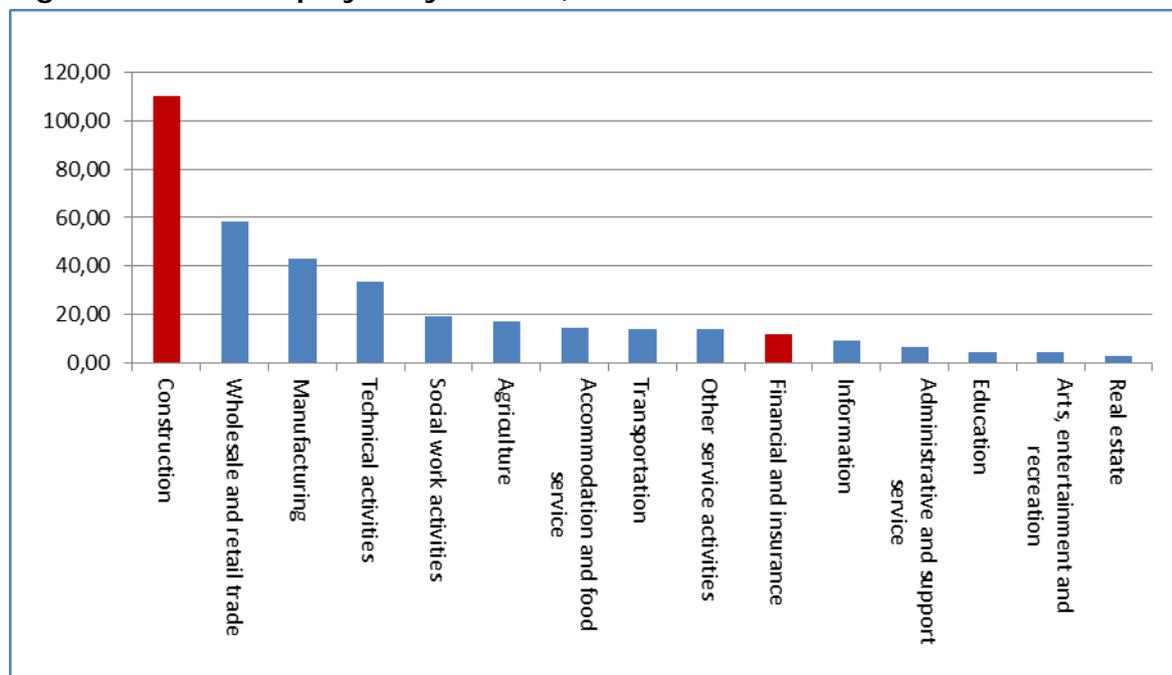
According to data available from Eurostat, Slovakia currently has 288,300 **self-employed**. Moreover, **over the 10-year period of 2001 to 2011, their number more than doubled**, from 119,800 to 288,300. In spite of that growth, **Slovakia is a country with a relatively low share of self-employed, at just around 13 per cent of all active population.**<sup>25</sup> Possibly this is due to the growth of dependent self-employment. **Dependent self-employment as a legal term** was recognised in the political debate in 2007 and was defined as work carried out personally by an employee for an employer, according to the employer's instructions, in the employer's name, for a wage or remuneration, during working time, at the expenses of the employer, using the employer's means of production and with the employer's liability, and also mainly consisting of certain

<sup>24</sup> Authors own calculations based on EU-LFS microdata.

<sup>25</sup> Calculations are based on Eurostat.

repeated activities. However, few if any cases of dependent self-employment have since been revealed. The initial indicator of dependent self-employment is the occurrence of self-employment in general. In Figure 3 we depict the occurrence of self-employment in different sectors in 2011. Columns in red represent the sectors of our interest.

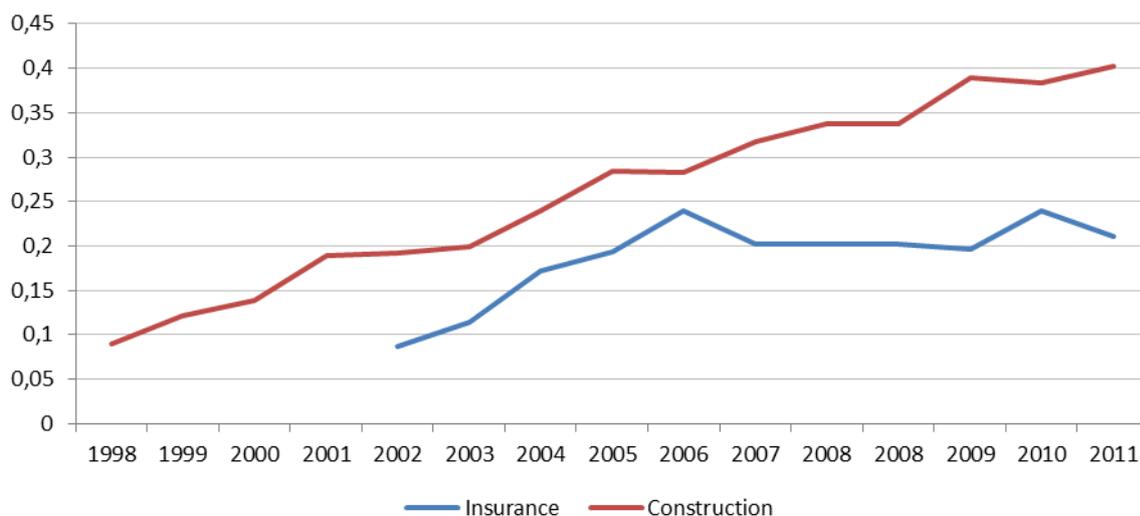
**Figure 3: Self-employed by sectors, thousands**



Source: Eurostat

Currently, self-employment mostly occurs in construction, wholesale and retail trade, and in manufacturing. The **development of self-employed with no employees** was sharply growing in construction sector during the 2000s. Only in recent years, most likely because of the economic crisis, their number slightly decreased. On the other hand, while insurance has rather low number of self-employed, it represents an interesting case study owing to its rapid increase in the numbers of self-employed. Self-employed in construction sector constitute one third of all self-employed. In our study, we concentrate on dependent self-employment in construction and insurance sector. The development of the share of self-employed in all employed in the sectors of interest, captured in Figure 4 reveals even much more interesting figures. The share of self-employed in all employed was increasing in both, construction and insurance. As of 2011 the number of self-employed with no employees in the construction sector accounts for 40 per cent of employed in the sector and the number of self-employed in the insurance sector accounts for 21 per cent.

**Figure 4: Share of self-employed in all employed in construction and insurance**



Source: Eurostat

Concerning the **motives for dependent self-employment**, economic reasons appear to be most important. On the employers' side it is the labour cost reduction as well as increased flexibility in hiring/firing the workforce. On the employee's side it is mostly the increase of the net income. With a business licence, a self-employed is allowed to deduct significant amount of tax base and therefore decrease social contributions payments to the minimum level but also entails less social rights. The **degree of social protection**, including social security payments as well as workplace security, is lower for dependent self-employed than for regular employees. Social security entitlements are low owing to low contributions, while workplace security is lower given that the employment relationship between dependent self-employed and the organisation is not covered by the Labour Code. This problem is particularly severe in the construction sector, where largely low-skilled dependent self-employed workers often lack the capacity to negotiate decent contracts with their employers.

It needs to be pointed out that **data on dependent self-employment in Slovakia are virtually non-existent**. We therefore report data on self-employment as such, and gauge information about what proportion of general self-employment may be of dependent nature from the interviews<sup>26</sup>.

#### 4.8.2 The construction sector

The largest fraction of the self-employed in Slovakia, 34 per cent, works in the construction sector. Unsurprisingly, self-employment is a very common practise among all workers in this sector, where self-employed workers account for 45 per cent of all workers. The prevalence of self-employed in the construction sector is connected to the process of economic transformation during the 1990s. As a consequence of privatisation of huge construction companies the employment rate in this sector decreased and many became self-employed in response. **It is hard to quantify the occurrence of dependent self-employment in the construction sector**. However, because of the extent of self-

<sup>26</sup> In the case of construction sector we conducted interviews with a union representative (regional coordinator of Integrated trade union – Integrovaný odborový zväz) and with a representative of a company employing dependent self-employed workers in the construction sector. In the case of insurance sector we similarly interviewed a representative of employers (the director of Slovak Insurance Association – Slovenská Asociácia Poisťovní) and a representative of employees (Trade unions of employees in financial and insurance sector – Odborový zväz pracovníkov peňažníctva a poisťovníctva).

employment in construction, and because self-employed without any employees (own-account self-employed) constitute as much as 90 per cent of all self-employed in the construction sector, we infer a high occurrence of dependent self-employed, confirmed in our interviews.

Owing to these numbers, we claim that **dependent self-employment is a visible and widely discussed issue in the sector**. Since almost half of the workers are self-employed, self-employment cannot be assigned only to crafts and construction works performed by individuals in households. Cases of big companies employing self-employed have been reported.<sup>27</sup> The prevalence of self-employment causes several problems that result in changed labour relations in the sector as well as changed conditions at the workplace. In brief, the **self-employed are undertaking tasks formerly performed by employees**. Therefore, they are supervised similarly as if they had an employee contract. However, they do not have much control over the conditions under which the work is performed.<sup>28</sup> This concerns for example deadlines for a given task, which consequently makes overtime work a frequent practice in construction sector. The guarantee of payments is in some cases very low. Pending or unpaid invoices are a common practice. Moreover, because of the current legal system and inefficient courts, it takes years to make the “employer” pay the arrears, if it ever happens.

**Chains of subcontractor relationships have evolved.** Most commonly, self-employed are subcontracted by a company which is a mediator, and it is often also subcontracted by another company. The issue of *de facto* and *de jure* responsibility arises here. *De facto*, self-employed who work for the mediator are responsible for a particular work they are providing. *De jure* responsibility of the whole project is on a large company subcontracting the mediating company. **This has many consequences on the organisation of work of self-employed in the sector.**

For instance, according to a representative of a company operating in the construction sector, self-employed are committed to their sub-employer and therefore they are bound by the deadline stipulated by the employer. In these relationships the responsibility for completing tasks within the deadlines is shifted to the self-employed, and the interceding company can easily stop payments in case deadlines are not observed. The strong commitment to finish work by a given deadline is an advantage for the employer. On the other hand, it is hard to talk about time flexibility of self-employed. Moreover, at the workplace they work under a close supervision of a construction manager who supervises and controls the quality of the works. **While dependent self-employed do not enjoy the flexibility usually provided by self-employment, they bear the burden of responsibility and risk just like any other self-employed workers.**

As in many other sectors where dependent self-employment occurs, **social security payments in the construction sector are paid solely by the self-employed** (and not their employers), which creates incentives to pay it at the minimal legally stipulated level, which is effectively lower than what employees need to pay. Because of high tax wedge on income from employment, employers try to avoid social security payments by hiring dependent self-employed. The problems reported by trade unions, especially in the construction sector concern work security regulations. Since self-employed are supposed to be responsible for their social security, their insurance should be paid by themselves and in case of injury employers are not obliged to compensate dependent self-employed. Moreover, self-employed can be asked to work unlimited hours, including weekends or holidays, which increases the risk of being injured because of tiredness or overworking. The reason is that payments to self-employed are typically not related to their hours worked,

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<sup>27</sup> According to representative of trade unions in the construction sector.

<sup>28</sup> According to employer in construction sector.

but are lump-sum payments for completing specified tasks. Consequently, **dependent self-employed usually work more than regulated working time defined by the Labour Code**. The self-employed have a very subordinated relationship to the employer in the construction sector with strict working conditions and little flexibility.

**Employers ensure the commitment of self-employed through conditionality of payments of invoices.** In order to commit self-employed to provide work at some quality standard, usually 90 per cent of agreed payment is paid and 10 per cent is paid later, after the guarantee period passed (typically 5 years or more). Yet contrary to that, as both dependent and regular self-employed are free to move to another contractor, they are less committed to a single employer and can sometimes provide less quality as apart from a financial commitment for a specific task there is no long-term relationship. Commonly it is not one employer for a longer time yet rather only for a given period until the current contract of the employer is accomplished. **Self-employed are not members of trade unions.** Therefore, they are not represented by any organisation and their problems are not voiced by any representatives.

In terms of wages, the net wages actually do not significantly differ between self-employed and wage-employed workers in this sector. As employers cannot lay off cost to costumers in construction, they are forced to look at their own company for cost reduction in case of higher taxes or fees. Lower wages for the self-employed workers can be such a tool, because with equal net wages, the cost lowers for companies through the absence of social contributions.

#### 4.8.3 The insurance sector

The insurance sector by itself does not contribute a large share to the total population of self-employed. However, the share of self-employed within the insurance sector is around 20 per cent. What is interesting in the insurance sector is the rapid increase of self-employed over a short time period in 2004 and 2005. Therefore, we will try to **explain reasons for that increase** as well as its additional consequences. The insurance sector passed through a transformation process in 2004 and 2005, induced by the transposition of the EU directive about financial mediation, and partially by the ownership changes in big insurance companies. The EU directive introduced several types of insurance agents, while the ownership change created a pressure towards costs reduction. As a result the productivity of employees started to be taken much more into account than before. The current law about financial mediation allows for several types of agents, namely "Independent financial agent" (IFA), "Dependent financial agent" (DFA) and "Subordinated financial agent" (SFA)<sup>29</sup>. All types of agents are working as self-employed.

The core interest of this case study will be **DFA and SFA types of agents working in insurance because they are bound to only one employer and can be considered to be dependent self-employed**. According to the recent data from Slovak National Bank (NBS), DFAs and SFAs are the prevalent types of agents. This is determined also by the fact that legal requirements<sup>30</sup> are less tight for DFA and SFA than for IFA. Agents have to be listed in the register of the National Bank of Slovakia (NBS). From this list we retrieved the most recent data about agents in financial sector in table 9.

<sup>29</sup> Law about intermediation No. 189/2009 allows intermediators to operate in finance in the same time. i.e. one can be mediator in insurance sector but in the same time he/she is licenced for capital markets, mortgages etc.

<sup>30</sup> Requirements concern mostly education and years of experience.

**Table 9: Stocks of agents in the financial sector and subsector of insurance**

		2010	2011	As of 11.9.2012
<b>IFA</b>	Finance	858	708	666
	Insurance	600	536	518
<b>DFA</b>	Finance	19,170	17,267	16,874
	Insurance	15,002	12,918	12,368
<b>SFA</b>	Finance	25,653	14,864	15,876
	Insurance	24,768	13,841	14,939

Source: NBS

As we can see in table 9, in the financial sector, a large majority of the agents in all three categories work in the insurance sector. We also observe some decline in the numbers, probably due to the economic slow-down. There were at least **three reasons for the increase of self-employment in the insurance sector in 2003 and 2004**. The *first* was an **economic reason**. The pressures to decrease costs and increase efficiency in insurance companies led to search for the options for reducing labour costs, including the reduction of tax wedge as depicted above.

The *second* reason was **to provide an incentive for agents to work more efficiently**. The regular employment contract did not ensure the level of commitment required by employer. The *third* reason was more technical **related to requirement of the EU authorities to transpose the directive on insurance mediation. The change in the organisation of employment in insurance sector changed the motivation of workers in the sector**. Self-employment status meant that agents were remunerated exclusively based on the commissions from their sales. This created considerably less favourable economic conditions for employees compared to self-employed. Their base salary was lowered to the minimum and a greater part of their salary became dependent on performance. Self-employment contracts increased income of those who were successful in contracting clients. Moreover, the low market saturation with insurance products caused relatively high income of insurance agents. Time flexibility was perceived as advantage as well. Within the insurance sector self-employment became dominant, with some employment relationship remaining for regular employees.

Besides the aforementioned reasons, the motivation for the dependent financial agents (DFAs) is even more particular. A DFA works only for one insurance company. The product offered by this agent can be only the product of one insurance company. Even though this can be seen as disadvantage because of impossibility to supply clients with the best offer on the market, it is an advantage for beginners in financial intermediation, i.e. DFAs, as they are **not obliged to provide the best option** on the market, because they only represent one company. Free agents are obliged by law to provide clients with the best service possible. According to employers, this is an appreciated benefit for DFAs. Another benefit is that **the company provides the DFA with support services**, especially at the beginning. The company can register at the authorities the DFA, which is required to work. Second, the company provides training to pass any national examinations. Thirdly, the company often provides insurance against damages, which is also obliged for the self-

employed. Lastly, the insurance company often provide the list of clients to contact to its DFAs, which is a considerable help for the beginner. The problem is that those services are most usually only temporary, i.e. many of those benefits are short-time benefits.

In the case of self-employment the **reduced social security payments are a two edged sword**. On one hand the possibility to pay very low social contributions, provides the self-employed the possibility to increase their immediate net income and therefore perceive self-employment as advantageous. On the other hand their entitlements to social security will be very low as a consequence. This concerns mostly the retirement benefits. The financial agents are not controlled on a daily basis, yet are monitored based on their performance. According to employers, the commitment of a self-employed agent is quite hard to ensure. Because self-employed, even if they work as DFA, have a right to leave their "employer" almost anytime. A strategy to counter this is to delay commissions and withhold them when an agent leaves.

**Self-employed workers in the insurance sector are not organised in any form of employee organisation defending their rights.** One of the reasons can be their relatively high remuneration. Another reason can be the fluctuation of agents in the sector, as those who do not succeed in the insurance sector most likely leave it. Exit is relatively easy also because no special qualification is needed in this sector.

## 4.9. United Kingdom

### 4.9.1 Occurrence of dependent self-employment in UK

'Dependent self-employment' has been the subject of media and political debate in the UK. According to Rachel Reeves, Labour MP, 'Bogus self-employment is a scandal that continues to undermine employment rights and hit taxpayers' pockets' (Reeves/Umunna 2012). The national tax collection agency, the HMRC takes the view that someone who works continuously and uniquely for a single firm is not genuinely self-employed and 'compliance reviews' are conducted against businesses believed to be engaged in this practice. The construction union, UCATT reports that payroll companies have advised construction companies on how they can reduce costs by switching their labour forces from employed to self-employed status and the BBC reported that some people on welfare-to-work schemes were being encouraged to adopt self-employment status which would mean they would receive working tax credits rather than Jobseekers allowance (Barnes 2013). UCATT's general secretary, Steve Murphy, said fake self-employment was costing the almost £2bn a year in lost tax revenues (Insley 2012).

However, **there is no reliable measure of the extent of 'false' or 'dependent' self-employment.** The Office of National Statistics has reported a 10% increase in self-employment over the years 2008 and 2012, an increase of 367,000 self-employed workers. Over the same period there was a 2% fall in the number of employees, that is a reduction of 434,000 (Office for National Statistics 2013a). Although **construction is, in absolute terms, the industry sector where by far the largest number of self-employed workers work**, between 2011-2012, growth was greatest in real estate (34.5%) public administration, defence and social security (20.5%) manufacturing (16.1%) (Office for National Statistics 2013b). There is speculation as to the causes of this rise of self-employment but these trends are likely to reflect a complex of factors: sectoral, cyclical, social and fiscal.

In the UK it can be argued that **some labour law** – namely the one only covering employed labour as opposed to all workers – may encourage dependent self-employment. This is because it **makes 'self-employed' workers relatively attractive to employers,**

because they lack certain rights such as the right to redundancy pay. This means that they can be hired and fired more flexibly and at lower cost. Similarly social security rules may encourage self-employment because contributions are lower for the self-employed and there are no contributions for the employer. However, dependent self-employed workers consequently have a lower entitlement to social security, for example, they cannot obtain Jobseekers Allowance (unemployment benefit). Despite **dependent self-employment** being associated with attempts to reduce the cost of labour, it **is also connected to features of the labour market in particular sectors**. In both construction and film and TV production, work and employment are affected by the **existence of many small companies, by commissioning/sub-contracting relationships and the project-by-project character of production and by seasonal factors**.

**In the UK construction sector 'false' or 'bogus' self-employment** is clearly recognised as a de facto employment situation. While there are no exact figures, it **is estimated to involve between 90,000 and 150,000 individuals**. It takes the form of workers being required by their 'employers' usually subcontractors to take the status of self-employed in terms of employment legislation and taxation status. These workers may pass regularly between self-employed and employed status.

**These workers are understood to be 'falsely' self-employed because they would prefer employed status and they earn less pay, enjoy fewer rights and do the same work as employed workers**. Furthermore, they may work for one company, or alternatively if they work for many companies then this mobility is imposed upon them.

In the **UK television and film production sector there is extensive self-employment or freelancing**. This may involve 50% of staff working in some organisations, such as the BBC. While **dependent self-employment** is also recognised, it **does not appear as extensive as in construction, nor is it perceived as equally problematic**. This is perhaps because 'freelancing' is considered to be more normal in this sector and there are considered to be advantages associated with freelancing. **Freelancing is perceived to be 'dependent self-employment' when workers feel compelled to accept this condition and/or where they would prefer employment**. This is the case, for example, of workers who have been made redundant and cannot find employment except for freelancing or for young, inexperienced workers or workers whose (low) skills are in excess supply who have no choice other than self-employment. Accordingly, these workers may strictly be personally dependent yet not entirely economically dependent but are still regarded as 'falsely' self-employed in the UK because of their weak market power.

#### 4.9.2 The situation in the construction Industry in UK

The **prevalence of dependent self-employment**, referred to in the industry as 'bogus' or 'false' self-employment, **is a big issue in the construction sector**. This category of self-employed are seen as workers who turn up to work with a bag of tools and work like any other employed operative, the only difference being that they are self-employed, and not through their own choice.

These workers might often end the week as an employed worker and start the following week as a self-employed worker, for the same firm and doing the same job, with their employer having decided to change their status. There are also a **significant number of genuinely self-employed workers in the construction industry**. These self-employed people would have **typically trained in a direct employment situation and then made the move to self-employment as a natural career progression**, perceiving the financial rewards to be greater along with the benefits of working for themselves and running their own business. **This self-employed workforce is highly mobile**, working across the UK and overseas, and often belongs to informal gangs or groups working on jobs

such as house extensions. The UK Government is concerned about the persistence of false self-employment in the construction industry. The construction trade union estimates bogus self-employment in the region of 30%. However, the **existence of these false self-employed causes certain issues** that both employers and trade unions agree upon:

- *Impact on training and maintenance of skills* for false self-employed and potential for skills shortages. Only companies employing people directly will take responsibility for training, implying that the skills of false self-employed workers are not being maintained and updated. Furthermore, it is highlighted that skill shortages can affect employers. For example, employers will pay a premium for workers when they find difficulty sourcing required skills.
- *Lack of job security and employment rights* as these workers can be called on and off when needed by employers.
- *Health and Safety issues*. Despite the health and safety record for major sites in the UK being good, many accidents are still happening on smaller sites and within domestic repair/maintenance work. Accordingly, the construction industry is a dangerous industry to work in. Sites with directly employed workers are more likely to have safety representatives.
- *Tendering disadvantages for firms who employ directly*. Companies that take on bogus self-employed are at a distinct advantage when tendering for work as opposed to companies who employ workers directly and operate 'correctly'.
- *Loss of HMRC revenue*. HM Revenue and Customs have been concerned about false self-employment for a number of years. Consequently, they have implemented various schemes to test for and limit 'false self-employment' but these are yet to influence the numbers of workers claiming to be self-employed. Depending on estimations, the loss to the Treasury through false self-employment is in the region of 2 billion pounds a year.

**False self-employed workers often have no choice in becoming self-employed**, with their employers deciding to change their status from employed to self-employed. However, to their advantage they will pay lower social contributions (Class 2) but as they also lose their unemployment insurance, this can also have consequences. As (false) self-employed, they are no longer 'employees', and thus the protection of employment law does not apply to them.

However, they are still 'workers', and owing to this definition, are still covered by the Working Time Directive and thus are entitled to holiday pay; however, control remains fully in the hands of the employer. According to the interviews, false self-employed workers on construction sites have to arrive on time, take their orders from the supervisor on site, eat their meals at set times, and leave at a set time. The employer supplies and arranges the working environment. In other words, **it is impossible to distinguish them from a directly employed employee on a building site**. In times of boom it can be difficult to ensure the commitment of workers, as they are very mobile. However, the current trend during the recession is that workers will stay with the one subcontractor as long as they possibly can because opportunities might be limited if they decide to move.

Employers note that false self-employed still have flexibility to move in the current climate, but risk future contracts thereby because of so-called disloyalty. Industrial relations do not exist between employers and false self-employed as a group because employers will only negotiate with individuals. However, the trade unions have members who are false self-employed and they are able to support them in industrial tribunals, e.g. for reclassification and holiday pay. There are set rates of pay for construction workers brokered by unions linked to experience and qualification levels. Depending on perspective, false self-employed

receive equal or less pay than regular employees. From the information collected in the interviews, it seems **more workers have been forced into false self-employment over the years**, as employers realise that they can earn more work by using false self-employed.

#### 4.9.3 The creative sector: television production and film production in UK

Freelance TV and film production workers are active workers across the broadcasting sector and the feature film sector. Drama production also includes a large proportion of freelance workers as production only takes place at certain times of the year rather than all year round.

**Many of these freelancers are technical staff**, e.g. camera, sound and lighting – all the workers behind the camera. Freelancers can be highly skilled technicians earning high rates of pay. However, the lower end of the pay hierarchy includes workers who have been made redundant from television companies yet are prepared to continue working for that company on a freelance basis for lower rates than when employed. Moreover, many freelancers are working for long periods, e.g. several months, at a set place and time in the same way as regular employees. **During the last 25 years, the number of self-employed in television and film production has increased significantly**. In total there are over 188,000 freelancers in the creative media industries (Skillset, 2009).

According to the stakeholders, dependent self-employment is a much-discussed issue in the sector. The trade unions argue that a large freelance television and film production workforce:

- Drives down rates of pay because workers are competing against each other for the same jobs;
- drives down health and safety standards;
- leads to a reduction in training levels in the TV and film production industry, with a large part of their workforce working on a freelance basis. For example, the BBC, renowned across the world for the training of its workforce, has decreased this aspect over the years owing to a large proportion of their workforce being freelance;
- leads to a lack of job security and employee rights, e.g. sickness pay, pension provision, the right to go to an employment tribunal to claim unfair dismissal, maternity pay, etc. The unions make provision to help, e.g. public liability insurance for £21 (which would normally cost about £300) and salary protection insurance available for purchase.

**Training issues are a specific problem**, especially the barriers that freelancers face in accessing particular training or skills. As a freelancer, it is difficult to establish where quality training can be found, and besides, trainings are expensive, both in terms of cost and time invested. Additionally, **there are implications for future skills needs**. It is difficult for them to take a longer term, strategic position on their talent development or their skills development, whereas in-house development and training in large organisations would start to plan training needs for the future.

**A freelance workforce is a cheaper option for employers** as they do not have to pay employers' national insurance at 12%, holiday pay, or sick pay. As freelancers can be quite highly paid professionals employers will not want them on their books during down periods, as production tends to be highly cyclical, regardless of the size of the company. Unions state that **the main motivator for employers** increasing levels of freelance workers **is that it allows them to pass responsibility and cost onto someone else**, e.g. for training and national insurance provision. However, according to the employers, the increasing trend in freelancers has occurred with the emergence of increasing numbers of independent production companies, including increased levels of independent activity at

BBC and ITV. These independent production companies usually have a small core creative team that would develop the product and the content and subsequently hire a freelance team. **Many workers like being freelancers.** While they lose job security, they also have the flexibility to choose their working periods by taking a break between contracts. Furthermore, freelancing provides the opportunity to only engage with jobs for which they have an interest, or specialise in a specific genre/area of work. **However, freelance TV and film production workers lose the right to the vast majority of employment law.**

**The control from employers in terms of place and content of work would depend on the freelancer's job.** For example, a producer commissioned for a piece of work would be provided with a budget and a deadline, yet would have a fair amount of control within that timeframe. However, in the case of other workers such as camera, sound and lighting people in the film or television industry, they are told when to start work, when to finish work and their work will be dictated each day by the director of the shoot.

Employers are aware that good freelance staff might move on and might not be waiting at the employer's disposal for the next contract. Consequently, **some employers arrange to ensure the commitment of the worker.** For example, if an employer knows that they are going to need a particular worker for an estimated number of weeks in a year yet mainly during certain periods of the year, such as January and February and July and August, they arrange for the worker's payment to be divided over 12 months, which helps the worker with cash flow. The employer would then have to give specified notice to the worker of when they would require them and once the worker received notice they would be obliged to work otherwise the un-worked period would be deducted from money received each month. In order to gain rights for freelance workers employment legislation has been altered. The organisation of industrial relations has changed since the last Labour Government's enactment of 'Statutory Recognition' in 1999, giving unions the right to be recognised for collective bargaining where there is majority support for recognition. Some anti-union employers resisted this legislation; however, **certain unions have** successfully taken cases through the body that adjudicates applications for union recognition – the Central Arbitration Committee - and **secured trade union representation against employers who have opposed union recognition.** For example, the BBC tried to oppose union recognition for the BBC Bristol Natural History Workers and union cover has since been extended to the whole of Drama. Furthermore, **the Working Time Directive,** entering into law during the first New Labour administration, **entitles all freelance workers to pro-rata holiday pay.** What happens in practice is that if the worker is working somewhere for a few weeks, they get pro-rata holiday pay added onto their salary, equating to approximately 11%. If they work for an extended period, e.g. 3 months, the union requires that they are given holiday for health and safety reasons.

**Differences in wage levels depend on the kind of job and to what extent the worker is a specialist.** At the top end, Grade 1 camera operators, hair and makeup, costume, wardrobe designers, etc., can still demand their rates as a freelancer. However, at the lower end of the pay hierarchy there is much competition, for instance workers who have been made redundant from permanent employment yet are prepared to do bits and pieces of freelance work for the same company for lower rates than when employed. Consequently, high competition for lower paid freelance work drives down pay rates.

**Younger people are particularly affected as they enter the industry through this lower-paid freelance level,** and some are on internships and traineeships where there are huge abuses with cheap labour. According to current legislation, it is not illegal to pay a worker less than minimum wage if the post was advertised as such.



## 5. SUMMARY OF THE MAIN FINDINGS AND CONCLUSION

### KEY FINDINGS

- The main driving forces behind the use of dependent self-employment are a relatively restricted national labour market (e.g., regulation on dismissal protection or temporary contracts) and high non-wage labour costs. As a result, both the incidence and consequences of dependent self-employment are closely related to the degree of the national labour market's flexibility.
- The case studies have shown that there is little information available on dependent self-employed workers in most countries. This is particularly true for those countries where no specific legal category exists.
- The quality of jobs in dependent self-employment varies enormously. Although a regular dependent employment relationship may not be a realistic benchmark, self-employment can represent an entry point into the labour market, with results indicating that this might be the case for the creative sector in Europe.
- In labour market segments with strong price competition and a large share of dependent self-employment, status mobility is limited. The working conditions that the dependent self-employed operate under are not easily separated from those of dependent employees. However, dependent self-employed are more likely targets of working time abuse.
- In general, dependent self-employed workers are neither organised nor represented by major trade unions. This allows only for individual bargaining between the employer and worker. Despite wages often not being lower than for dependent employees, dependent self-employed workers commonly lack pension entitlements.
- Dependent self-employment has a mixed impact on state and society; for instance, while it adds to labour market flexibility, it also shortens social security revenues. In addition, if widespread, dependent self-employment may lead to lower working standards in whole sectors, as well as skills reduction due to lower training intensity.
- While dependent self-employment may stimulate the efficiency and competitiveness of the European economy, it also undermines important EU-principles such as solidarity, quality and equity, as well as goals including education and training and the support of social dialogue.
- Individual consequences of dependent self-employment depend on the household composition, the length of the dependent self-employment phase in the life cycle and the (in)voluntary character of self-employment. However, there is no clear empirical evidence to date for a significant relationship between dependent self-employment and certain psychological, health or fertility implications.

### 5.1. Dependent self-employment as an element of increasingly flexible labour markets

Dependent self-employment is a working relationship whereby the worker is formally self-employed whilst encountering conditions of work similar to those of dependent employees. As shown from the evidence gathered here, dependent self-employment mainly occurs in construction, transport, insurance and accounting, business services, architecture and the creative sector.

As exemplified by the case studies, **the development, concrete organizational design and prominence of genuine self-employment and dependent self-employment are highly diverse across EU Member States. Dependent self-employment can be regarded as a sub-phenomenon of a general trend towards increasing labour market flexibilisation.** Due to structural change, technological and demographical changes, as well as changes of lifestyle, including the transformation of family structures, non-traditional working arrangements such as dependent self-employment or part-time work have become more important. **Data on dependent self-employment is hard to find**, given that dependent self-employment is not a part of formal working relationships in most countries. One common approximation involves considering the number of self-employed without employees, although this exceeds the number of self-employed persons with employees in each EU Member State.

**Social rights of dependent self-employed are dependent on the existence of a legal hybrid category.** If such a category does not exist, these rights are either similar to those of genuine self-employed or can be derived from universal benefits for all inhabitants. However, in the case of the institution of hybrid categories, certain social rights for employees are extended to the dependent self-employed. In countries such as Austria, Italy and Germany, hybrid legal categories guarantee some labour rights to dependent self-employed, while in other countries, e.g. France, special regulations are in place for subgroups such as journalists or moviemakers. Furthermore, **criteria to recognise dependent self-employment vary across countries.** For instance, the existence of a personal dependency on the employee's side is decisive in Germany, while present subordination represents the key factor in many countries. **The non-recognition of dependent self-employment by labour law often entails a non-representation of dependent self-employed in collective bargaining institutions**, or alternatively in the cases of countries such as Austria, they are even counted on the 'other side' of the labour market, when their official status automatically leads to membership in an employer's association. Therefore, their interests are not aggregated and represented.

**The distribution between voluntary and involuntary dependent self-employment seemingly varies according to the sector of interest.** Furthermore, **the motives to engage in dependent self-employment largely depend on the specific features of the industry** in question. **Motives for workers** choosing a working engagement as dependent self-employed include time flexibility, increased autonomy and the simplification of the work process in comparison to genuine self-employment, while further advantages can relate to tax benefits and reduced legal liability. **From the employer's perspective**, the motives for deploying dependent self-employed workers include the (partial) transfer of entrepreneurial risk, the circumvention of labour and social security law, as well as regulations from collective bargaining. Furthermore, the deployment of dependent self-employed workers offers a solution to the flexibility-control dilemma faced when considering outsourcing opportunities.

Latest research finds that **labour market regulation entails strong effects on the level of self-employment.** The key factors contributing to a more extensive use of dependent self-employment are **a more restricted national labour market** in terms of regulation on dismissal protection or temporary contracts, **as well as high non-wage labour costs.** Therefore, both the incidence and consequences of dependent self-employment depend on the degree of the national labour market's flexibility.

## 5.2. The quality of the new types of jobs: lessons from the case studies

The sectoral case studies in seven different countries have shown different dynamics between both countries and sectors within countries. **There are significant differences in the prevalence of self-employment between sectors and between countries, whether genuine or dependent.** For instance, countries such as France have significant lower numbers in self-employment than Italy and Slovakia. Across countries, the creative sector counts a high share of self-employed workers, which has also been rising, including the prevalence of dependent self-employment. However, different images appear in other sectors, with self-employment rising in the construction industry in Slovakia, Austria and Germany, yet remaining rather stable in France. The use of agents in the insurance sector seems to be linked with a higher prevalence of dependent self-employment, yet no wilful transformation of the sector is evident. The development of the agent system depends on the country, but the organisation remains very similar. The transport sector appears to be the most closely linked to national legislation. This shows the existence of sectoral tendencies, albeit each with national particularities.

The case studies clearly show that **there is little information available on dependent self-employed workers in most countries**, and especially in those countries where no specific legal category exists. Official data is missing, and stakeholders can only provide more-or-less anecdotal evidence without being able to determine the scale of the problem. However, **both employer federations and trade unions are aware of the problem in most cases**, with attempts to shed further light on the situation, such as in the transport sector in France or the European research on bogus self-employment in construction. **Employers in all sectors recognise the element of unfair competition while trade unions particularly focus on the loss of social security rights.** Particularly in sectors such as construction and transport, dependent self-employment can be used to undercut competition. For the creative and insurance sector, the use of dependent self-employment is more the result of the sector's organisation than the internal competition. Both employers' as employees' organisations lack the ability to provide a more detailed overview of the situation, given that the self-employed are often not registered with either organisation. Dependent self-employed workers are particularly more likely not to be registered with either, given that they are not independent to organise their own business and thus appear to have little to gain from joining an employers' federation.

**The rise of migrant self-employed workers also adds to this phenomenon**, given that they are not always aware of the options possessed in representation and are thus less likely to report abuses that lead to or originate from dependent self-employment to employer federations or trade unions. Particularly in sectors where less educated workers are involved, such as construction and transport, migrant workers can be more easily directed to dependent self-employment. By contrast, sectors such as insurance or creative sectors do not experience this inflow of migrant workers.

**The actual situation of dependent self-employed workers varies enormously.** For instance, while dependent self-employed is an existing issue in the insurance or accountancy sectors, it is less harmful and more accepted by the workers than in the transport and construction sectors, where dependent self-employment often places workers in a precarious situation. The creative sector is the most diverse in itself, with all sorts of freelancers and difficulty in establishing dependency.

While these are more often young workers passing through certain job stages, the number of freelancers in this sector is increasing, pointing at a more difficult situation for some workers. The increase in more flexible work statutes such as the "auto-entrepreneur" in France boosts the number working from self-employment, yet calls their representation

and social rights into question. **The widespread use of dependent self-employment generally means that collective bargaining and collective interest representation via trade unions and works councils is undermined and replaced by individualised competition.**

**From an individual perspective, dependent self-employment may be a better solution than being unemployed or in irregular employment.** Although a regular dependent employment relationship may not be a realistic benchmark, self-employment can represent a form of entry point into the labour market, with results indicating that this might be the case for the creative sector in Europe. While some dependent self-employment can constitute a stepping-stone towards the establishment of a larger business or to regular dependent employment, this character is not entirely clear. In labour market segments with strong price competition and a large share of dependent self-employment, status mobility is certainly limited. While stable deployment as dependent self-employed may be better than unstable or risky self-employment, it can simply imply the persistence of a relatively unattractive labour market status with limited prospects of mobility to more secured forms of (dependent) employment. **The working conditions that the dependent self-employed operate under are not easily separated from those of dependent employees.** Despite dependent self-employed workers being easier targets of abuses in working hours and facing more difficulties in organising their task schedule, the insurance sector highlights that this is not necessarily so. On the other hand, the transport sector shows that abuse can go the other way, not targeting dependent but rather all self-employed in some cases. While dependent self-employment is often used to lower social insurance contributions, this must not automatically lead to a undermining in labour law. However, it is important to note that labour law does not apply in many cases when the contract partners work together based on a private rather than labour contract.

**The wages gained by the dependent self-employed vary as much as their working conditions.** While a long chain of subcontracting leads to lower wages, such as in the construction sector, the wage differences are small or even non-existent in other sectors or even companies, where many dependent self-employed workers do not earn more than their dependently employed counterparts. Additionally, they face higher economic risks without having a real opportunity to benefit from the status of self-employment, particularly in sectors such as construction or logistics. However, in cases such as successful freelancers in the creative sector, they can be better off compared to dependent employees. The lower cost of both employer and employee social contributions enables companies to pay a higher wage directly while still lowering their costs. However, it is even **more difficult to establish the long-term consequences of switching from dependent employment to dependent self-employment.** It is doubtful that most dependent self-employed workers sufficiently improve their income over time and save enough to compensate for insufficient public pension entitlements. Particularly in the creative occupations, the perceived job satisfaction can be high (due to autonomy and creative aspects of the work performed) despite a precarious status and/or low or unstable income. Accordingly, **dependent self-employment may have quite different motivations in different sectors**, which also depends on individual preferences and alternatives. Finally, additional income stability and social protection might be provided by other sources of income and/or other household members.

### 5.3. Socio-economic consequences of dependent self-employment and its impact on the European social model

To assess individual and (more indirect) social consequences of dependent self-employment, the following elements must be taken into account. *First, regular dependent employment with full social protection and decent pay and labour market protection may not be the realistic benchmark for comparison, but rather some other form of flexible employment or even unemployment, inactivity or irregular work.* *Second, some socio-economic consequences of self-employment might vary according to the household composition of the dependent self-employed, in particular the presence of a spouse or other household members with their own income (household versus individualistic approach).* Furthermore, and particularly **in respect of migrant dependent self-employed workers, earnings from dependent self-employment might often be higher than in their home countries**, with remittances to their families and countries of origin having some stabilising effects there. Other income sources in the household can also facilitate experimentation, with creative activities or other forms of start-up that may not initially generate sufficient earnings. **Accordingly, a household with one dependent self-employed worker is not necessarily a poor household.** *Third, the length of the dependent self-employment phase in the life cycle plays a role, along with the (in)voluntary character of self-employment* that can be taken up either as an opportunity or through necessity.

Regarding the **impact of rising numbers in dependent self-employment on the public sector** and society, **both positive and negative consequences can be identified.** Indeed, they are often closely related, given that the positive and negative effects are simply two sides of the same coin. While dependent self-employment might be considered as offering additional jobs in occupations where formal employment is low, such as in the creative or construction sector, companies shying away from creating new dependent jobs due to market risks, as in the creative sector, gain the opportunity to deploy people on a more flexible base.

**Dependent self-employment increases the labour market flexibility of the deploying company.** Dependent self-employed workers represent flexible labour both in terms of wage and external-numerical flexibility. As reported in some case studies (e.g. France), the wages for dependent self-employed workers are sometimes not bargained until the product of their work has already been accomplished, offering their employers an opportunity to command products that are perfectly matched to their needs (as they are able to control the production process), without having to invest in advance and encounter the risk of overstressing financial resources.

**Even in comparison to temporary employees, dependent self-employed workers can be deployed in a more flexible manner because their working time can easily be reduced or augmented,** without the need to follow the fixed amount of hours of formal contracts (as full-time, part-time, etc.). Therefore, dependent self-employment offers the opportunity to produce goods and services at lower costs than those created by dependent employees, as only the amount of time really needed for the product or service has to be paid, which may add to the competitiveness of the economy at the macroeconomic level. Furthermore, **as a less static type of work, dependent self-employment might be considered as a possible driveway towards new substantial businesses,** when dependent self-employed workers move towards genuine self-employment and hire dependent employees. However, empirical research shows that **this effect strongly depends on the labour market.**

For instance, in more flexible labour markets (e.g. UK), dependent self-employment is mainly used to increase the labour flexibility of low-qualified workers who hardly create additional jobs (“entrepreneurship out of necessity”). In contrast, dependent self-employment is used in less flexible labour markets (e.g. Italy) to deploy highly educated young workers outside of the highly protected insider labour market (“creation of a dual labour market”).

Another possible effect of dependent self-employment relates to **job opportunities for migrant workers**. In some cases, they are able to offer their services as dependent self-employed, when a position as dependent employee is impossible to obtain (for example, due to legal acts in labour and migration law). This was the case for migrants coming from CEE countries to Austria and Germany during the period when the labour market was still closed for them, while services could already be offered. The countries of origin subsequently benefit from remittances from these workers. One final benefit for the public sector is that - **in contrast to illegal work - it generates taxes and - in some cases - contributes to social security schemes**.

Besides these positive aspects, **dependent self-employment also entails rather negative implications for the public sector and society**. Dependent self-employment is often chosen to **circumvent the payment of social security contributions or taxes**. In most countries (e.g. France, Germany, Italy, Austria), some laws are only applied when companies have a certain amount of employees, which companies can avoid by formally lowering this number through the use of dependent self-employment. Dependent self-employment often lowers the state’s tax revenues, given that dependent self-employed often have to pay lower taxes when taxed similarly to genuine self-employed (for example, in the UK or Slovakia). Additionally, **the expanding number of workers engaged in dependent self-employment increases the pressure on regular dependent workers to likewise accept the lowering of social security standards and wages as well as increased instability in terms of job security**. In sectors where dependent self-employment is widespread, they must otherwise fear that their jobs are replaced by dependent self-employed workers. The same applies for the unemployed, who are also under pressure to accept disadvantageous working contract conditions. Furthermore, **employers attempting to operate with dependent employees are exposed to an “unfair competition”** as competitors drawing on dependent self-employment are able to offer their products or services at lower prices.

The rise of dependent self-employment runs contrary to the public sector’s interests as long as it represents an ambiguous type of employment. **A growing share of workers whose working conditions and relations are neither regulated by law nor negotiated by the social partners results in less political and social governing capacity in the labour market**. It is common for dependent self-employment to entail legal uncertainty, leading to a situation in which workers’ rights are weakened with the enforcement of existing labour law and social protection provisions effectively being suspended. The regulations agreed in public and corporative institutions do not operate in this grey zone, likewise regulations concerning the employment of migrants. In its ‘White paper on social policy’ (1994), the European Commission refers to a ‘European social model’, which would include the values of *‘democracy and individual rights, free collective bargaining, the market economy, equality of opportunity for all and social welfare and solidarity’*. Besides a high level of employment and social protection, the institutions of the European Union also aim to foster education and strive for the principal of equity (non-discrimination). Industrial relations are regarded as ‘crucial to the success and stability of the European social model’ (Eurofound 2011).

**Dependent self-employment pushes the pursued balance between competitiveness and quality/solidarity or efficiency and equity from the social to economic logic.** While dependent self-employment may be seen as an efficient type of employment, it undermines the principles of job quality and solidarity. Dependent self-employed compete in settings where price plays the most important role, given that economising on costs represents one of the key motives to employ dependent self-employed workers. This probably leads to an erosion of job quality, because the acceptance of low hourly wages and very flexible and insecure working conditions is a competitive advantage.

In addition, **the fact that dependent self-employed workers are usually neither organised nor represented by major trade unions only allows for individual bargaining between the employer and worker.** Dependent self-employment thus poses a major challenge to established regulatory arrangements that develop around regular dependent employment, putting these arrangements under economic and institutional pressure. **Dependent self-employment may also hinder the fostering of training,** given that companies have a strong interest in the further education of their dependent employees, whereas dependent self-employed often lack sufficiency time and money to devote to skill training.

**The fact that dependent self-employed workers do not equally benefit from social protection, including maternity leave payment, poses a challenge to the principle of equity among working women.** Indeed, they are discriminated over women in regular dependent employment, given that they often only have access to maternity leave payments at a minimum level.

**Overall, the impact of dependent self-employment on the European social model has to be considered critically.** While possibly stimulating the efficiency and competitiveness of the European economy, it simultaneously undermines important principles such as solidarity, quality, equity, and goals like education and the support of social dialogue. However, not all of these impacts are caused by dependent self-employment per se, and some negative effects on the European social model can be avoided by adapting national labour market law and social protection systems. Nonetheless, the general tendency remains for dependent self-employment to enlarge the space of the economic rather than social logic.

Finally, **social and health risks are mainly expressions of economic circumstances.** Low income harms the possibility of insuring against sickness, unemployment or old age. For example, typical risks of own-account workers are insufficient social insurance and pension entitlements. However, there is no clear evidence of this within latest research on the relationship between health and flexible forms of work. Rather, it appears that **health strongly depends on the precise contract design and individual characteristics;** for instance, flexible forms of work may have an effect on fertility rates, although the empirical evidence on this is mixed. In principle, a permanent labour contract is positively correlated with the intention of having a child, while being a precarious worker has a rather negative effect. In general, health risks can be reinforced by psychological strain, resulting from certain factors such as income instability, time pressure, etc. Nonetheless, there is no clear evidence to date for a significant relationship between dependent self-employment and negative health effects owing to psychological strain. Accordingly, further research and analysis regarding a possible impact of dependent self-employment on health is needed to shed further light on this debate.

## 6. POLICY OPTIONS

### KEY FINDINGS

- This study shows that dependent self-employment is a rather diverse phenomenon that needs to be very carefully analysed, with a need to establish better definitions regarding types of employment relationships.
- While dependent self-employment is often used to circumvent core elements of labour law and social protection provisions, adopting an overly restrictive approach risks creating additional barriers to labour market integration and cross-country mobility within the EU.
- However, self-employment that is only used for formal reasons should be contained. A promising approach to dependent self-employed workers might involve establishing and enforcing clear definitions of dependent self-employment and making social security coverage and labour law less dependent on the employment status by providing a more universal social protection regime.
- General principles and guidelines are preferred over a uniform European system, given variation in national circumstances. Accordingly, a sectoral and negotiated approach should be chosen.

### 6.1. Promoting self-employment and reforming social protection

Self-employment can represent an attractive employment option. Indeed, **fostering self-employment can contribute to the creation of jobs, and also for dependent workers**. Recent evidence on public ALMP start-up support schemes provide significant positive evidence on their effectiveness in bringing unemployed people back into the labour market while simultaneously contributing to the creation of additional jobs. Seen as creative entrepreneurship, self-employment is an important element of dynamic market economies. Start-ups contribute to and accelerate structural and technological change, which are both necessary ingredients of a competitive economic model.

On that basis, **self-employment, and to some extent even economically dependent self-employment, should be promoted in a sustainable manner**. However, our study shows that some forms of dependent or 'false' self-employment entail an element of unfair competition between workers and employers, yet also between firms. When firms source out tasks to dependent self-employed workers to reduce labour costs and increase labour flexibility, they have a comparative advantage over firms that do not work with dependent self-employed individuals. The empirical evidence gathered in this study clearly shows that **the widespread use of dependent self-employment can lead to a labour market situation where a sufficient return to traditional forms of dependent wage labour is difficult**. The acceptance of regulation by market actors, employers and workers alike reflects an indispensable feature of any substantial policy reform.

From a policy perspective, this poses major challenges as **dependent self-employment can actually be used to circumvent and question core elements of labour law and social protection provisions**. Despite empirical evidence not yet being fully clear, with reliable data essentially missing, clear-cut policy conclusions for direct political action are difficult to establish and have to consider particular sectoral and national circumstances. Therefore, without creating additional entry barriers into the labour market, the following **two core priorities rank high on the policy agenda**:

1. *First*, there is a **strong need for clear criteria for the definition of dependent employment, self-employment and (different forms of) dependent self-employment**. The creation and clear definition of intermediate categories, for example, as adopted in Austria or Italy, is a potentially promising way to establish an operational labour market status given obvious tendencies of highly flexible employment in some sectors and occupations, namely where dependent employment appears to be an unviable option in practice. Moreover, a hybrid intermediate status can establish a solid middle ground between traditional dependent employment relationships and traditional forms of self-employment. However, **the actual application and enforcement of these criteria by responsible monitoring bodies is most important**; for instance, through inspection services on social security contributions. In particular, this would concern main employers rather than the dependent self-employed, who often find themselves in an economically weak and thus vulnerable legal situation. However, the widespread take-up of self-employment also signals that some rules governing dependent employment may not be suitable and viable in some areas of the labour market.
2. *Second*, apart from labour market regulation, social protection provisions, and particularly non-wage labour costs, i.e. taxes and social insurance contributions, are major factors in terms of deciding what type of employment to choose. **Making social security coverage less dependent on the employment status or type of economic activity can help to avoid labour market distortions by narrowing the gap in non-wage labour costs between dependent and self-employment**. This would particularly entail reforms concerning the social security coverage of (dependent) self-employed. One option is the integration of the (dependent) self-employed or at least major categories into existing social protection schemes for dependent employees, while a second option involves the creation of an intermediate category of dependent self-employment with specific rules governing their social protection. In both cases, a liability of the employer or principal to pay taxes and social security contributions (combined with a general responsibility for legal conformity regarding the contractual situation of their subcontractors) can be helpful.

## 6.2. Policy recommendations at the European level

Dependent self-employment is a potentially pressing political issue at the European level, thus necessitating a general sensibility for the topic, with the following issues arising:

### 1. Necessity of better data

Given that the empirical evidence remains somewhat unclear, with reliable information on the frequency and working conditions of dependent self-employed missing, **we propose including questions concerning dependent self-employment in the European labour force survey**. This would allow a finer grained assessment of the situation and a better-tailored policy approach.

### 2. Better operational definitions

**An overly restrictive approach to (dependent) self-employment may create additional barriers to labour market integration and cross-country mobility within the EU**, which may be detrimental to the working and living conditions of potential workers. While start-ups should not be discouraged by strict regulation, self-employment used to undermine labour and social security laws should be contained. **EU Member States could be required to take the reality of dependent self-employment into account, establishing better definitions**

**regarding work statuses** – this could also imply the creation of a hybrid intermediate category with clear rules of labour law and social security contributions.

### 3. Providing more universal social protection

Furthermore, **it is fully consistent with the ambition of the European social model to provide more universal and appropriate social protection and labour law, such as health and safety standards for all**, notwithstanding different formal types of employment. This implies extending social protection, and particularly social insurance, also to (dependent) self-employed or particular target groups or the creation of specific social security regimes for (dependent) self-employed workers. Existing national institutions and preferences have to be taken into account, given that they have a strong influence on labour markets' functioning; indeed, any policy reform has to be designed in accordance with national circumstances. General principles and guidelines that should be implemented in the national context can be established in order to promote a uniform European system.

### 4. Better cooperation regarding migrant workers

At least in some sectors, dependent self-employment is an issue of migrant labour from within or outside the EU, and there is also irregular employment of migrants involved. Thus, **better cooperation with respect to the trans-border assessment of the employment status of mobile workers is required**, particularly to establish the chains of command between different actors (subcontractors) and the liability for social protection and taxes.

### 5. A sectoral approach and social dialogue

There is a remarkable diversity of both the regulation and relevance of dependent self-employment across EU Member States as well as between sectors. Furthermore, the prominence of transnational contracting in some sectors must be taken into account, such as construction or logistics. Under these conditions, **a sectoral approach appears most preferable at the European level**. Given that rules in this segment of the labour market have to be accepted and implemented in practice, **this calls for the involvement of the social partners using the established rules of European social dialogue**. The European social partners can be asked to study the issue and find practical solutions to the issue of dependent self-employment, particularly in those sectors where trans-border activities play an important role. This can be encouraged by the European Commission and the European Parliament, while a negotiated approach can also improve the acceptance and compliance with regulatory solutions, which is essential for the actual design of employment relationships in particular sectors. **A negotiated approach could particularly refer to the definition of dependent self-employment, operational implementation and compliance mechanisms**.

### 6. Calling for general principles of social protection

Accordingly, the **role of the European Parliament** is to call for a careful monitoring of the socio-economic situation with particular reference to the prominence of dependent self-employment in some countries and sectors, questioning basic employee protection rights and social security provision as well as basic features of the European social model. Moreover, the European Parliament, along with the Commission, can call on the European social partners to address the issue and enter into negotiations on general principles of dependent self-employment. Furthermore, it could also **call for general principles of social protection** of (dependent) self-employed in all EU Member States, while respecting national diversity.

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## ANNEX

**Table A1 : Overview of the scope of social protection for employees, self-employed and dependent self-employed in Denmark**

	Employees	Self-employed	Dependent self-employed
Financing	Contributions (employees/self-employed and employers) and taxes through local and national authorities.	Follows employees.	Follows employees.
Sickness and Maternity	Tax financed protection scheme for the active population with earnings-related benefits, partly covered by the employer. Tax financed universal public health service for all inhabitants (residence based). Universal protection scheme for the active population (employees and self-employed) with earnings-related benefits.	Follows employees, except a minimum scale of self-employment is necessary.	Follows self-employment.
Long-term care	Tax financed universal scheme.	Follows employees.	Follows employees.
Invalidity	Tax financed universal protection scheme for all inhabitants: social pension as disability pension.	Follows employees.	Follows employees.
Old age	Social Pension: tax-financed universal protection scheme covering all inhabitants with flat-rate pensions depending on the duration of residence. Supplementary pension: compulsory social insurance scheme financed by contributions covering employees and assimilated groups providing pensions depending on contributions and the duration of affiliation.	Pension follows employees, supplementary pension only after three years of salaried work and opting to continue contributing.	Follows self-employment.
Survivors	Only for the supplementary pension: benefits to survivors depending partly on the pension and partly on the time of membership and contributions paid by the deceased person.	Follows employees.	Follows employees.
Accidents at work	Compulsory insurance scheme financed by employers' premiums/contributions covering all employees working in Denmark and providing benefits in kind and earnings-related cash benefits.	Self-employed persons are optionally protected against accidents at work and occupational diseases.	Follows self-employment.

	Employees	Self-employed	Dependent self-employed
Family benefits	Tax financed universal scheme covering all residents, including childcare allowance and other specific benefits.	Follows employees.	Follows employees.
Unemployment	Voluntary unemployment insurance scheme financed by contributions covering the active population and providing earnings-related benefits. If not insured, a basic level of social welfare is available for genuine full-time job seekers.	Unemployment insurance is also voluntary for the self-employed persons, yet they can only join specific insurance funds. If not insured, an evaluation by a social worker decides whether the self-employed is entitled to social welfare.	Follows self-employment.

- **Source:** Missoc data 2011-2012 and own research.

**Table A2: Overview of the scope of social protection for employees, self-employed and dependent self-employed in France**

	Employees	Self-employed	Dependent self-employed
Financing	Contributions (insured persons and employers) and taxes.	Only contributions from the self-employed.	Follows self-employment.
Sickness and Maternity	Compulsory social insurance scheme with affiliation based firstly on professional criteria and secondly on residency, and financed by social security contributions and special contributions with earnings or income-related benefits for sickness. Compulsory social insurance scheme with wage or earnings-related maternity and paternity benefits, and financed by social security contributions.	In terms of health care, the benefits in kind are the same as in the general system. Most self-employed have daily allowances within health insurance, except farmers. For all self-employed same form of maternity benefit exists, but less advantageous as the general system.	Follows self-employment.
Long-term care	Supplements exist for assistance of a third party, of the invalidity pension, for a disabled child and disability allowances.	No specific insurance.	Follows self-employment.
Invalidity	Compulsory social insurance scheme financed by contributions with earnings- or income-related pensions.	Invalidity pensions exist for all groups. Farmers must be retired and unfit to work, others must be invalid, be affiliated to the scheme, be up to date in the payment of contributions, and not have reached the statutory retirement age for his or her age cohort.	Follows self-employment.
Old age	Compulsory basic and complementary social insurance schemes financed by contributions providing earnings-related pensions depending on contributions and the duration of affiliation.	Except liberal professions and farmers, self-employed pensions follow the rules of the general system with supplementary pensions in specific professional schemes.	Follows self-employment
Survivors	Compulsory social insurance schemes financed by contributions with pensions depending on the rights of the deceased person.	—	—
Accidents at work	Compulsory insurance scheme financed by contributions from employers with benefits in kind and earnings-related cash benefits (indemnities or pensions).	Except for liberal profession and farmers, the same rules apply for self-employed in their own system.	Follows self-employment

	Employees	Self-employed	Dependent self-employed
Family benefits	Universal scheme financed by contributions from employers, from the self-employed and from a portion of the generalised social contribution, including child benefits, childcare allowance and other specific benefits.	Family benefits are paid by the Mutual Insurance Fund for Farmers.	Follows self-employment
Unemployment	Unemployment insurance: Compulsory social insurance scheme financed by contributions for employees with earnings-related benefits. Unemployment assistance: Tax financed scheme. Benefits paid under conditions of previous activity and means test.	No unemployment insurance system exists.	Follows self-employment.

**Source:** Missoc data 2011-2012.

**Table A3: Overview of the scope of social protection for employees, self-employed and dependent self-employed in Germany**

	Employees	Self-employed	Dependent self-employed
Financing	Contributions (insured persons and employers) and taxes.	Follows employees, but without contributions from employers.	Follows employees, but without contributions from employers
Sickness and Maternity	Compulsory social insurance scheme financed by contributions for employees and categories of persons assimilated thereto up to a certain income limit with earnings-related benefits. Continuation of payment of wages and salaries paid by the employer. Compulsory social insurance scheme for employees and categories of persons assimilated thereto providing benefits in kind and earnings-related cash benefits.	Compulsory private or public health insurance scheme financed without contributions from employers. For crafts and commerce, no independent statutory protection system exists. Farmers can apply for benefits in kind according to the general system. Liberal professions are obliged to join sickness insurance.	Follows self-employment.
Long-term care	The long-term care insurance is according to its basic idea and its legal form only a "core protection system". The possibility for a voluntary additional insurance for long-term care is given to every citizen. The statutory long-term care includes two independent parts next to each other – social (SPV) and private long-term care insurance (PPV), which are both compulsory insurances with identical benefits.	Long-term care insurance is compulsory for any person who subscribed to compulsory sickness insurance but also for those persons who subscribed to sickness insurance from a private body. Follows sickness and maternity.	Follows self-employment.
Invalidity	Compulsory social insurance scheme financed by contributions and taxes covering employees and certain groups of self-employed with earnings-related pensions depending on contributions and the duration of affiliation.	Craftsmen, farmers and liberal professions are subject to compulsory membership of the system. Retailers have the possibility of joining the statutory system and can apply to the general system under certain conditions.	Follows self-employment.
Old age	Compulsory social insurance scheme financed by contributions and taxes covering employees and certain groups of self-employed providing earnings-related pensions depending on contributions and the duration of affiliation.	Craftsmen, farmers and liberal professions are subject to compulsory membership of the system. Retailers have the possibility of joining the statutory system and can apply to the general system under certain conditions.	Compulsory pension insurance scheme financed without contributions from employers. Exemption is possible for first three years after setting up the business and dependent self-employed who are older than 58.

	Employees	Self-employed	Dependent self-employed
Survivors	Compulsory social insurance scheme for employees and certain groups of self-employed financed by contributions and taxes with benefits depending on the pension of the deceased person.	Craftsmen, farmers and liberal professions are subject to compulsory membership of the system. Retailers have the possibility of joining the statutory system and can apply to the general system under certain conditions.	Follows self-employment
Accidents at work	Compulsory social insurance scheme for employees, certain groups of entrepreneurs and self-employed and other groups financed by contributions with benefits in kind and earnings-related cash benefits.	Farmers are covered by the general system. For others, there is no compulsory accident insurance for craftsmen and retailers in the statutory system, but they can join certain funds voluntarily.	Follows self-employment.
Family benefits	Tax-funded scheme with fixed amounts for tax exemption of the parental income to the amount of certain needs of a child for all parents and for the promotion of family, in so far as child benefit is not used for tax exemption, including child benefits, childcare allowance and other specific benefits	Follows employees	Follows employees
Unemployment	Unemployment insurance: contribution financed compulsory social insurance scheme for employees. Basic security benefits for jobseekers: tax-financed scheme of means-tested minimum resources for employable persons in need.	There is no compulsory unemployment insurance for self-employed craftsmen and retailers. Without sufficient income and no disposable assets, the self-employed are in principle entitled to a universal allowance granted to the gainfully employed to secure their subsistence ( <i>Arbeitslosengeld</i> ). Former dependent employees can join the unemployment insurance voluntarily under certain conditions	Follows self-employment.

Source: Missoc data 2011-2012.

**Table A4: Overview of the scope of social protection for employees, self-employed and dependent self-employed in Italy**

	Employees	Self-employed	Dependent self-employed
Financing	Employees' and employers' contributions to the INPS	Depending on profession self-employed must pay certain contributions to a fund. Small entrepreneurs and free professions contribute to the relevant INPS "Separate management Fund", licensed professions to the Professional Funds.	Co.co.co/Co.co.pro: employees' and employers' contribution to the INPS "Separate management fund". Occasional workers: no contributions up to a fixed amount per year.
Sickness and Maternity	Compulsory social insurance scheme for employees with earnings-related benefits with continuation of payment of salary by the employer. Health service financed by contributions for all inhabitants (based on residency). Compulsory social insurance scheme for employees with earnings-related benefits.	Benefits in kind are granted to small entrepreneurs according to the regulations of the general system, but no protection system exists for cash sickness benefits. Licensed professions have different Professional Funds, where different rules apply. Free professions follow the rules of dependent self-employment, but without sickness benefits. For small entrepreneurs maternity is regulated with compulsory social insurance scheme with fixed benefits, earnings-related benefits for licensed professions and free professions follow dependent self-employment.	Follows self-employment. In case of Co.co.co/Co.co.pro, rights similar to employees. Two types of sickness benefits: (i) <i>hospitalisation</i> (ii) sickness and compulsory social insurance scheme with earnings-related benefits for maternity/paternity leave. Co.co.pro workers also have the right to an extension of contract.
Long-term care	Long-term care benefits are partly contribution-based and administered at national level. Others are non-contributory benefits aimed at guaranteeing sufficient resources.	Follows employees	Follows employees
Invalidity	Compulsory social insurance schemes financed by contributions paying earnings-related benefits depending on contributions and the duration of affiliation, which come in two types: (i) <i>Ordinary disability benefits</i> : 2/3 permanent reduction of working capacity. A working activity is allowed. (ii) <i>Disability pension</i> : 100% permanent reduction working capacity, no working allowed	Disability benefits are subject to income limits. The amount of disability allowance and disability pension corresponds to the benefits in the general system.	Follows self-employment.

	Employees	Self-employed	Dependent self-employed
Old age	Compulsory social insurance scheme financed by contributions covering employees with earnings-related pensions depending on contributions and the duration of affiliation.	Compulsory social insurance scheme managed by INPS for free professions and small entrepreneurs. The latter require a period of 20 years of contributions. For licensed professions, Independent Professional Funds manage social security treatments (different rules and calculation systems apply).	Follows self-employment. Co.co.co/Co.co.pro: contributions-based system managed by INPS requiring a minimum of five years' contributions.
Survivors	Compulsory social insurance scheme for employees financed by contributions with benefits to survivors depending on the deceased person's pension rights.	Benefits to survivors depending on the deceased person's pension rights. For small entrepreneurs, survivor benefits/pensions are subject to income limits.	Follows self-employment (benefits depending on deceased pension rights).
Accidents at work	Compulsory social insurance scheme for employees and certain categories of self-employed financed by contributions of employers and self-employed providing benefits in kind and cash benefits.	Compulsory social insurance scheme providing benefits in kind and cash benefits. For small entrepreneurs, benefits are granted according to the specific qualifying conditions provided for within their special scheme.	Follows employees.
Family benefits	System financed by the employers' contributions covering the employees with benefits depending on the family income and on the number of family members, including special allowances.	Benefits depending on status (self-employed/pension) and number of dependent family members for small entrepreneurs. Licensed or other free professions receive no family benefits.	Follows self-employment. Co.co.co/Co.co.pro has rules similar to employees.
Unemployment	Compulsory social insurance scheme for employees financed by contributions from employers, providing earnings-related benefits.	No protection system exists for unemployment.	Follows self-employment. Only for Co.co.pro, a single payment equal to 30% of previously earned up to a ceiling and within certain requisites.

Source: Missoc data 2011-2012.

**Table A5: Overview of the scope of social protection for employees, self-employed and dependent self-employed in Slovakia**

	Employees	Self-employed	Dependent self-employed
Financing	Contributions (insured persons and employers) and state subsidy.	Contributions and state subsidy (family benefits).	Follows self-employment. Workers with a "contract on work performance/activity" only pay taxes.
Sickness and Maternity	Compulsory social insurance scheme for employees and self-employed with earnings-related benefits. Possibility of voluntary insurance for all other persons over the age of 16, with the continuation of payment of wages and salaries paid by the employer. Health care system to all residents. Compulsory social insurance scheme for employees and the self-employed with earnings-related benefits, also with possibility of voluntary insurance.	Eligibility is conditional on paid contributions.	Follows self-employment. Workers with a "contract on work performance/activity" are not entitled to maternal leave and sickness leave.
Long-term care	Long-term care is financed partly through municipality, regional self-government and state. The benefits are provided as a combination of benefits in kind and cash benefits.	Follows employees. The individual is entitled in the case of non-performance of self-employed activity.	Follows self-employment.
Invalidity	Compulsory social insurance scheme financed by contributions for employees and certain groups of the self-employed providing earnings-related pensions depending on contributions and the duration of affiliation.	Compulsory contributions in the same percentage as for employee, eligibility is conditional on social contributions, on the amount and length of payments.	Follows self-employment. Workers with a "contract on work performance/activity" are not entitled unless paying non-compulsory social contributions.
Old age	Basic pension: Pay-as-you-go (PAYG) social insurance scheme based on contributions and solidarity principle, where the sum of the benefit is derived from earnings activity during the whole working life. Supplementary pension: funded scheme based on contributions and on an assessment of the money deposited with benefits linked to the accrued pension capital. Supplementary voluntary old-age insurance scheme financed by contributions of insured persons and employers.	Follows employees' contributions into PAYG, supplementary pension and voluntary pensions. The level of the pension depends on the paid contributions. <sup>1)</sup>	Follows self-employment. Workers with a "contract on work performance/activity" are not entitled unless they contribute on voluntary basis.

	Employees	Self-employed	Dependent self-employed
Survivors	Compulsory social insurance scheme financed by contributions covering employees. The amount depends on deceased person's pension.	Contributions are compulsory. A certain group of the self-employed are entitled depending on the deceased person's pension.	Follows self-employment. No compulsory payments for workers with a "contract on work performance/activity". A certain group of the workers are entitled depending on the deceased person's pension.
Accidents at work	Compulsory insurance scheme financed by employers' contributions covering employees with earnings-related cash benefits, based on the principle of income maintenance (at least a level of 80%). Cash benefits complete sickness benefits, invalidity benefits and survivors' benefits. Benefits in kind are covered by the health care insurance scheme.	There is no protection system for the self-employed.	Follows self-employment. Applies for workers with a "contract on work performance/activity" as well.
Family benefits	Combination of child benefits, child raising allowance; childcare and other special allowances based on residence.	Child benefits and child raising allowance apply as for employee contract.	Follows self-employment. Universal to all.
Unemployment	Social insurance scheme financed by contributions from employers, employees and voluntarily insured persons, covering employees and voluntarily insured persons and providing earnings-related benefits.	Equal to the general system, but only in case of non-performance of the self-employed activity and previous voluntary insurance.	Follows self-employment. Workers with a "contract on work performance/activity" are not entitled.

**Source:** Missoc data 2011-2012.

**Notes:** <sup>1)</sup>In case of minimum contribution to insurance of retirement, the individual is not entitled to the minimum pension and thus has to be compensated by benefits paid by the state.

**Table A6: Overview of the scope of social protection for employees, self-employed and dependent self-employed in the United Kingdom**

	Employees	Self-employed	Dependent self-employed
Financing	Financed through contributions (employees and employers), taxes and employers. National Health Service (NHS): financed by taxes and (to a lesser extent) from contributions.	Contributions and taxes (family benefits).	Follows self-employment.
Sickness and Maternity	SSP paid by the employer. Compulsory social insurance scheme for employees and self-employed persons, which has flat-rate benefits. Tax financed national health service for all inhabitants (based in residency). Earnings-related Statutory Maternity Pay, Statutory Paternity Pay and Statutory Adoption Pay for employees or earnings-related Maternity Allowance. <sup>1)</sup>	Self-employed people are not entitled to SSP. However, they may be able to claim Employment and Support Allowance (ESA) straight away. Equal access to NHS. No Statutory Maternity Pay, but may be eligible for Maternity Allowance. No Statutory Paternity or Adoption Pay, and no maternal/sickness leave. Exception is for agency workers for whom the employer pays contributions. Contribution-based ESA payable to self-employed persons who paid sufficient contributions during a certain period. Income-based ESA is means tested.	Follows self-employment.
Long-term care	Non-contributory, state-financed system providing cash benefits and benefits in kind (social care) for elderly or disabled persons and their carers.	While there is no general scheme of long-term care benefit, self-employed people can receive any available help on the same basis as everyone else.	Follows self-employment.
Invalidity	There are two types of ESA. Contribution based ESA is dependent on National Insurance contributions. Income-based ESA is means tested.	Self-employed people who have paid sufficient National insurance contributions are eligible for Contribution based ESA. Self-employed people are also eligible for income-based ESA which is means tested.	Follows self-employment.
Old age	Contributory State Pension scheme (for those who have reached state pension age) made up of a flat-rate basic State Pension, an earnings-related additional State Pension, State Second Pension (reformed SERPS from April 2002) and, for some, a contribution based Graduated Retirement Benefit.	Self-employed persons can qualify for the contributory (state) Basic Retirement Pension on the same basis as employed persons, but they generally have no entitlement to a state earnings-related pension, yet are eligible for pension credit, an income related benefit topping up the income to minimum level.	Follows self-employment.

	Employees	Self-employed	Dependent self-employed
Survivors	Compulsory social insurance scheme for the active population (employees and self-employed) financed by contributions providing lump sum Bereavement Payment, flat-rate Bereavement Allowance, and flat-rate Widowed Parent's Allowance. To qualify for bereavement benefits, the deceased must have paid the required National Insurance contributions or to have died at work.	The surviving spouse or civil partner of a self-employed person who has died may be entitled to survivor's benefits on the same basis as the spouse or civil partner of a person who was employed, but there is no entitlement to a state earnings-related pension.	Follows self-employment
Accidents at work	State non-contributory (tax-financed) "no-fault" scheme covering employees with flat-rate benefits.	No protection system exists for self-employed persons. <sup>2)</sup>	Follows self-employment
Family benefits	Special grants and allowances based on residence. Child Benefit is at present universal. Child tax credit and the childcare element of working tax credit are based on income. Claimants of these benefits must normally be physically and ordinarily resident in the United Kingdom.	Follows employees.	Follows employees.
Unemployment	Contribution-based Jobseekers' Allowance: compulsory social insurance scheme for all employed and some self-employed persons. Benefits are flat-rate. Income-based Jobseekers' Allowance: social assistance scheme, tax financed and with means tested flat-rate benefits	No protection system exists for self-employed persons. If they become unemployed, they can claim income-based Jobseeker's Allowance (which is means-tested).	Follows self-employment.

**Source:** Missoc data 2011-2012.

**Notes:** <sup>1)</sup>Statutory adoption, maternity and paternity pay is paid by the employer, but the employer can recover most or all of the benefit from HMRC. <sup>2)</sup>Some self-employed agency staff who pay Class 1 National Insurance contributions are also eligible.

**Table A7: Self-employment in Italy**

	Overall	Construction sector	Insurance/Finance sector
% of self-employment	24.9	38.9	26.5
"Liberi professionisti" as % of self-employment	21.3	1.2	64.6
"Lavoratori in proprio" as % of self-employment	60.3	92.5	23.3
Collaborators as % of self-employment	5.2	0.6	7.5
Entrepreneurs as % of self-employment	4.1	0.8	1.0
% of self-employed with one contractor	28.8	15.2	35.4
% of self-employed who do not decide where to work	34.3	72.5	33.8
% of self-employed who do not decide the work hours	15.7	10.3	11.0

Source: Italian LFS 2011

**Table A8: Incidence and characteristics of dependent self-employed workers in the financial sector**

	Def. 1: One contractor	Def. 2: One contractor & no flexibility	Def. 3: Collaborators
Incidence	26.9	4.7	7.5
Characteristics			
Male	66.3	54.9	52.1
Age 15-34	26.8	47.9	42.3
Age 35-54	47.7	34.4	32.5
Age 55-64	19.3	11.9	14.5
Over 65	6.1	5.7	10.5
Secondary education or lower	59.5	57.2	43.6
Tertiary education or higher	39.5	42.8	56.4
Part-time	20.2	29.2	30.2

Source: Italian LFS 2011

**Table A9: Incidence and characteristics of dependent self-employed workers in the construction sector**

	Def. 1: One contractor	Def. 2: One contractor & no flexibility	Def. 3: Collaborators
Incidence	10.8	1.7	0.6
Characteristics			
Male	99.7	99.7	100
Age 15-34	22.1	33.7	11.9
Age 35-54	60.9	55.7	45.4
Age 55-64	15.4	8.9	36.5
Over 65	1.5	1.6	6.3
Secondary education or lower	98.7	96.1	92.4
Tertiary education or higher	1.3	3.9	7.6
Part-time	4.0	7.6	5.8

**Source:** Italian LFS 2011



DIRECTORATE-GENERAL FOR INTERNAL POLICIES

## POLICY DEPARTMENT ECONOMIC AND SCIENTIFIC POLICY **A**

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