



Mutual learning workshop on 'Access to Social Protection for vulnerable groups workers'

Brussels, Belgium, 20-21 February 2025

Thematic Discussion Paper 2

Towards labour status neutral social security protection?

The need for equal protection and inclusive social
security systems across employment types

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1. Introduction

Standard employment relationships (i.e. a full-time employment contract of indefinite duration) offers the most developed labour and social security protection (Schoukens and Barrio 2017; Schoukens, De Becker and Bruynseraede 2025). Despite the continued prevalence of standard employment, non-standard work arrangements — including part-time work, temporary employment, and (solo) self-employment — are increasingly common, often blurring the lines between employment and self-employment (ILO 2015).

Data suggest that around 40 % of the EU workforce is engaged in atypical work, which deviates from the standard employment relationship. Around 13-14 % of the EU workforce is self-employed, with a notable increase in solo self-employment (Eurostat 2023; see also Spasova and Wilkens 2018). Other non-standard forms of work have also become more important. Part-time work accounts for 17.1 % of employment in the EU (Eurostat 2024a), although there are significant national differences (e.g. the Netherlands: 38.7 % vs less than 5 % in some Member States).¹ Temporary contracts account for around 12.1% of the salaried employment in the EU labour market (Eurostat 2024b), with significant differences between Member States.² Temporary agency work and other multi-party contractual relationships represent a small but growing segment of wage employment (ILO 2016).

These shifts highlight a more fragmented labour market, further impacted by digitalisation and evolving work patterns, leading to less stable career trajectories. These developments pose significant challenges to existing labour and social security frameworks, which remain structured around the standard employment model (OECD 2022). Recent EU initiatives, such as principle 12 of the European Pillar of Social Rights (EPSR)³ and the 2019 (EU) Council Recommendation on access to social protection for workers and the self-employed (2019 Recommendation),⁴ signal political commitment to strengthening protection for all workers and the self-employed. Labour status neutrality is a key concept underlying the 2019 Recommendation.

Despite progress, the European Commission's implementation report on the 2019 Recommendation highlights persistent coverage gaps (European Commission 2023). Many Member States still struggle to adequately integrate atypical work into social security systems (De Becker 2023; OECD 2022). Traditional distinctions between employees and the self-employed pose additional challenges, especially for people moving between statuses. Some illustrative examples:

- A long-term employee transitions to self-employment, initially combining both statuses before becoming fully self-employed. The switch to a full-time self-employed activity could lead to a loss of social security rights.
- A worker leaves a job to pursue further education and takes on sporadic work on digital platforms. Due to irregularity and lack of formal registration, it is unclear to

¹ In 2023, more than half of employed women worked part-time in the Netherlands (60.6%) and Austria (50.7%) and more than one-third in Germany (48.0%) and Belgium (37.3%), as discussed in [Eurostat 2024a](#).

² Between 2019 and 2023, the total share of temporary employment decreased by 1.6 percentage points (pp.), despite a noticeable increase between 2020 and 2021 following the outbreak of the COVID-19 pandemic and its impact on the labour market, as discussed in [Eurostat 2024b](#).

³ European Commission, *Communication to the Parliament, Council, the EESC and the Committee of the Regions establishing a European Pillar of Social Rights*, COM (2017) 250 final (EPSR), Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52017DC0250>.

⁴ Council Recommendation of 8 November 2019 on access to social protection for workers and the self-employed [2019] OJ C 387/07. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.C_.2019.387.01.0001.01.ENG&toc=OJ%3AC%3A2019%3A387%3AFULL

what extent they should formally register within the social security system. This leads to uncertainty, but also to gaps in their social security protection.

- A worker has two part-time jobs. One is covered by social security (45 % FTE), while the other (20 % FTE) is not. Despite working a total of 65 % FTE, their fragmented employment status results in incomplete social security coverage.

The paragraph above gives examples of individuals moving between statuses and schemes within social security systems (Spasova et al. 2017; European Commission 2018). Such mobility is not uncommon today. While workers traditionally had a full-time job with a single employer, employment patterns have become much more fluid in recent decades. Individuals often move between labour statuses, work for different employers simultaneously or over time, combine different labour statuses simultaneously, or do not work for some periods due to caring responsibilities (see also Behrendt and Nguyen 2018).

The concept of **labour status neutrality** is sometimes invoked as a way of shaping labour and social security law so that everyone is entitled to social protection that considers their needs and characteristics. This principle could also guide EU Member States in adapting their social security to accommodate an increase in mobility between employment statuses. However, to this day, ambiguity and uncertainty remain in the interpretation of the concept of labour status neutrality.

The aim of this thematic paper is to explore how labour status neutrality can be implemented to ensure equal protection and preserve entitlements across different statuses within social security systems. The paper begins by situating the concept of labour status neutrality within EU policy and the relevant international and European human rights frameworks. In doing so, it provides a more detailed understanding of the concept of labour status neutrality and the idea of universal social protection, as well as the underlying principles that can give shape to these concepts. The paper then addresses one of the most critical challenges within social security systems: transitions between different social security systems inside one country (see also Behrendt and Nguyen 2018). Given the considerable diversity of social security systems and the protection they offer, moving from one system to another can result in significant reductions or losses of social security entitlements. The last section concludes the paper, making some suggestions for possible ways forward at EU and a national level.

2. Labour status neutrality

2.1. The notion of labour status neutrality

Labour status neutrality is not a new concept. As early as 2000, Schoukens highlighted the need for a neutral social security system, applying general rules to all occupational groups while allowing for specific adjustments (Schoukens 2000). Different from older EU documents, the 2019 Recommendation and principle 12 of the EPSR reaffirm this principle by advocating for comprehensive social protection that includes both employees and the self-employed:

“While it is acknowledged that different rules could be applicable to workers and the self-employed, the principles of formal coverage, effective coverage, adequacy and transparency defined in this Recommendation apply to all workers and to the self-employed.” (own emphasis)

This statement underscores the universality of social security rules while allowing for occupation-specific adaptations (Battista 2022; Aranguiz 2024). Similarly, Schoukens and Bruynseraede (2021) stress that:

“When one starts to apply these rules on self-employed for instance, they will first have to be reformulated in a more neutral manner so that they can accommodate all relevant professional groups; it is only in their application that further rules can be developed taking into account the specific work situation of each of these groups”.

Denmark provides an example of how unemployment protection for employees has been extended to the self-employed and includes a more neutral approach (Schoukens, De Becker, and Pieters 2023; Jacqueson 2024).

Box 1. Labour status neutrality in Denmark’s unemployment scheme

Although the Danish unemployment scheme was already opened for the self-employed for a long time, it recently (2018) underwent some profound changes, among other things to improve the protection for the self-employed (as discussed in Schoukens, De Becker and Pieters 2023 and Jacqueson 2024). To give an example: since the reform, (1) the Danish entitlement conditions in relation to the minimum work period starts from the income earned in the period prior to unemployment; and (2) the income earned is translated into a corresponding number of working hours to verify whether the minimum threshold is reached. A mere application of minimum working hours upon the self-employed seemed to be problematic. Quantifying this minimum condition in terms of generated income suits them better and allows a swifter application in cases where activities as an employee and the self-employed are combined. As pointed out by Jacqueson, however, several barriers to effective access still exist (2024).

2.2. Labour status neutrality and the idea of social protection for all

Labour status neutrality aligns with the broader principle of universal social protection and the right to social security, as reflected in international and European human rights instruments (see also Aranguiz 2024). This fundamental right is closely intertwined with the idea that social security protection plays a crucial role in creating social cohesion (ILO 2001) and strengthening democracy (Pieters 2024). Examples of the right to social security can be found in the [Universal Declaration of Human Rights](#) (1948), stating the right for everyone to access to social security coverage (Article 22⁵ and Article 25⁶).

Similarly, reference can be made to Article 12 of the Council of Europe’s [Social Charter](#) (ESC). Article 12(1) ESC contains the obligation for countries to establish and maintain a social security system. On first sight, a less stringent obligation seems to flow from the Charter of Fundamental Rights of the EU (CFREU). However, this provision underlines the role of the EU in recognising and protecting the right to social security as developed in the legal systems of the EU Member States. One could argue that it also encourages the EU to, taking into account its competences, support EU Member States in ensuring access to

⁵ Art. 22: “**Everyone** as a member of society has a right to social security” (own emphasis).

⁶ Art. 25: “**Everyone** has the right to social security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control” (own emphasis).

the right to social security. The 2019 Recommendation shows the role the EU can play in further guiding the EU Member States.

The 2019 Recommendation builds on earlier initiatives at EU level. Looking back at those earlier EU policy documents on social protection, they strongly focused on the protection of “workers”, as the very name of the [Community Charter of Workers](#) (1989) already made clear. Throughout the Community Charter, several references to what can be described as the standard employment relationship are made. Hints at the idea of a broader social protection, however, can already be found at the Community Charter; it can be argued that it shows already in 1989 on the EU commitment to strengthening social protection for all. Not unsurprisingly, however, the first EU steps in this domain still reflected strongly the logic underpinning most EU Member States at that time, with a strong focus on employees.

Box 2. Principle 10⁷ of the Community Charter of Workers

*Principle 10: “Every worker of the European Community shall have a right to adequate social protection and shall, **whatever his status** and whatever the size of the undertaking in which he is employed, enjoy an adequate level of social security benefits.” (own emphasis)*

Principle 10 already has a broad look on the type of protection granted: Member States should provide social protection for every worker, “*whatever his status and whatever the size of the undertaking in which he is employed*”. Whilst it is unclear what is exactly meant by the word “worker” in Principle 10, it probably would not cover the self-employed.

The Community Charter was further developed by the [Recommendation of 27 July 1992 on the convergence of social protection objectives and policies](#) (92/442/EC) (1992 Recommendation). This instrument provides for more extensive protection – again – by referring to a more comprehensive social protection for *all* in certain aspects.

Box 3. 1992 Recommendation

Below we highlight the principles in the 1992 Recommendation relevant for this paper. Member States should take steps in order that:

- Any person residing legally should be entitled to human health.

In addition, the 1992 Recommendation states that the following principles for EU Member States:

- To ensure the social integration for all persons legally resident within the territory of the Member State and the integration into the labour market for those who are able of exercising a gainful activity;
- To provide income replacement for workers in case of the traditional social risks. Those benefits can take the form of a flat-rate benefit or reflect their previous earnings. This should allow them to maintain their standard of living in a

⁷ As further developed by Principles 24 and 25:

24. Every worker of the European Community must, at the time of retirement, be able to enjoy resources affording him or her a decent standard of living.

25. Every person who has reached retirement age but who is not entitled to a pension or who does not have other means of subsistence must be entitled to sufficient resources and to medical and social assistance specifically suited to his needs.'

reasonable manner, in accordance with their participation in the social security scheme.

- To examine the possibility of introducing and/or developing appropriate social protection for the self-employed.

While the various documents listed above emphasise the obligation of countries to develop social security protection and provide for a broad approach to the protection granted, more information on **how to achieve** labour status neutrality is more difficult to find. In the paragraphs below, this paper delves deeper into the different human rights instruments, looking for the principles underlying the right to social security. The European Committee of Social Rights (ECSR) responsible for the supervision of the ESC stresses the large margin of discretion for states. The [Digest to the ESC](#) contains more information on Article 12(1) ESC.

Box 4. Article 12 ESC

Article 12 ESC, as developed further by the ECSR

According to the Digest, **Article 12 guarantees the right to social security to workers and their dependents including the self-employed.** This means that states must create a social security system, **by law and functioning in practice.**

Similar to the 2019 Recommendation, we can find that the self-employed are also entitled to social security protection. Moreover, there is an obligation for states to further develop their social security system, which should also allow individuals to effectively access their social security rights. The wording 'functioning in practice' could mean that the social security system should not be too overly complex and administratively burdensome, as it could lead to the loss of social security rights of individuals.

In addition, we can point to the following elements which, according to the ECSR, should be part of social security systems and that are relevant for this paper:

- **Coverage against the following traditional risks:** medical care, sickness benefit, unemployment benefit, old age benefit, employment injury benefit, family benefit, and maternity benefit.
- **Personal scope:** the social security system must cover a significant percentage of the population for the health insurance and family benefits. A significant percentage of the active population should be covered as regards income-replacement.

A different approach in the Digest can be discerned for certain social risks. Healthcare and family benefits are considered social risks of a more universal nature; different from income replacement benefits, such as unemployment or sickness (see similarly, 1992 Recommendation, Article I, A. 1. b.). Although no specific number is mentioned: Member States should strive towards providing coverage for a significant part of the population / active population for what are considered the traditional social risks. The Digest makes clear that the principle of non-discrimination also serves as an important guiding principle for Member States.

Looking at the level of the ILO, the idea of universal social protection has also been further developed in [ILO Recommendation 202](#) on social protection floors (ILO Recommendation 202). It includes the following principles:

Box 5. ILO Recommendation 202

The following principles can be found in the ILO Recommendation 202, that are of relevance for this paper:

- Universality of protection, based on social solidarity;
- Non-discrimination, gender equality and responsiveness to special needs;
- Transparent, accountable and social financial management and administration, which is closely tied to financial, fiscal and economic sustainability, where equity and social justice also plays a crucial role; and
- Coherency with social, economic and employment policies. This also means coherency across institutions, responsible for delivery of social protection.

The paragraph above strongly reflects the idea of universal social protection, and sets out the principles that should guide countries in developing social security protection, i.e. non-discrimination, transparency and coherency. The importance of coherency is reiterated throughout the ILO Recommendation 202. Article 13 (2) stresses the need for comprehensive and adequate social security systems, coherent with national policy objectives. Similarly, Article 14 (c) underscores the need to close gaps in protection through appropriate and effectively coordinated schemes.

In view of the above, we can conclude that the principle of labour neutrality has its roots in the right to social security and the idea of universal social protection. Without imposing a well-defined system, it can be argued that the necessary coverage should be provided regardless of the employment relationship. Moreover, the system itself must be coherent, transparent and non-discriminatory. Those principles can guide the operationalisation of the principle of labour status neutrality in the section below.

2.3. Developing the notion of labour status neutrality

Taking into account the previous section, we could argue that to achieve labour status neutrality and access to social protection in practice, social security systems should respect the following principle:

- **Universal protection and a neutral system design:** Coverage should extend to all economically active individuals, irrespective of employment status. For certain social risks (healthcare and family benefits), a more universal approach is adopted in EU policy documents and human rights instruments.

Closely related to the principle of labour status neutrality is the need for:

- **Transparency and administrative simplicity:** Systems should be easily navigable for both individuals and institutions.

One of the principles under the 2019 Recommendation is also the need for solidarity, fairness and a sustainable social security system (Article 9)⁸. That entails that the necessary

⁸ "Member States are recommended to ensure effective coverage for all workers, regardless of the type of employment relationship, and for the self-employed; [...], while also preserving the sustainability of the system. [...] Tot that end: [...] b)

attention in the design of social security systems should be given to a fair build-up of rights and a financial equilibrium of the social security system. In light thereof, it can be argued that following principles are closely intertwined with the principle of labour status neutrality, i.e.:

- **Solidarity and fair cost distribution:** Contributions should be aligned with the social risk exposure of different work arrangements, preventing distortions while maintaining financial sustainability.
- **Proportionality and the prohibition of discrimination:** Eligibility criteria should be clear, reasonable, and proportionate. The necessary attention should be paid to the social security contributions paid and the financial sustainability of the system. To ensure fairness, with rights come responsibilities, but the system itself should not be designed in such a way that access to social protection is severely hampered.

2.3.1. Universal protection and neutral design

Defining the social risk

The first principle (universal protection and the neutral system design) seems easier to realise for certain social risks, (or at least the identification of the social risk and the provision of a benefit) than for others. Examples are the social risks of bringing up children or the costs related to healthcare. Already in the 1992 Recommendation we find a broader interpretation of the protection of healthcare (Article I, A. 1. b), as well as in Article 12, para. 1 ESC (see above). However, questions may arise as how to regulate the access to those systems (e.g. based on residence or rather based on one's previous or current social status or the link to a professionally insured person) and to what extent a system is truly neutral in its design. This may also pose problems for forms of work that deviate from what we have classically regarded as the standard employment relationship.

A neutral system design becomes more problematic in the case of (short-term) income-replacing social risks (e.g. unemployment sickness) than for risks such as healthcare etc. In this case, it is more complex to delineate the occurrence of the social risk, i.e. it is more difficult to define the social risk itself: when does one lose one's income in case of unemployment or sickness and to what extent should one be completely without the loss of income to be granted a social security benefit. In particular, for the self-employed, countries often face difficulties in determining the loss of income and the occurrence of a social risk.

In general, social security schemes struggle to adequately include self-employed. For example, in case of unemployment or sickness, the applicable legislation will often require a complete cessation of professional activities. The self-employed who have to cease their activity completely may be less inclined to apply for an unemployment benefit if they face financial difficulties at some point or have to – due to circumstances outside their will, such as the end of a contract by their sole client – cease their professional activity. Moreover, when the self-employed can still take up certain administrative tasks to guarantee the continuation of their professional activities, it is difficult to draw a clear demarcation line between an activity for the continuation of their economic activity and a genuine economic activity.

differences in the rules governing the schemes between labour market statuses or types of employment relationship should be proportionate and reflect the specific situation of the beneficiaries".

Box 6. Access to social protection for the self-employed in case of sickness – Belgium

Belgium's sickness scheme allows that the self-employed can still perform residual tasks when sick that allow the person concerned to earn a living taking into account the nature and scope of their professional activity (see also the discussion in De Becker 2023). It is also possible to gradually take up work again, in combination with sickness benefits. In the first six months, sickness benefits are not reduced (Article 28*bis* Royal Decree of 20 July 1971).

Box 7. Access to social protection for the self-employed in case of unemployment – Sweden

Another example is Sweden, where some tasks for the continuation of the business activities can still be performed, without performing the actual work. However, if the self-employed reinitiates their work, they will need to liquidate their company completely in order to be able to be entitled to unemployment benefits again. This means that self-employed persons who end up in recurrent periods of unemployment will face higher thresholds for accessing unemployment benefits than employees. In contrast to employees, the self-employed can not combine unemployment benefits with part-time work in Sweden (Art 35a Act of 29 May 1997 on Unemployment Insurance (Sweden) and Hartzel 2022).

Earned income also plays a key role in (short-term) income replacement benefits. However, social security systems face difficulties to ensure access to social protection for individuals with highly variable employment contracts (in terms of duration and percentage of work) or earned income from self-employment. This makes it difficult to accumulate rights in the social security system and to be affiliated to the social security system in the first place. Too little work intensity and income accumulation will have an impact on several key issues in social security, i.e. whether one is covered, how social security rights are accumulated and how contributions are determined.

Box 8. Access to social protection in case of marginal employment (examples from Germany, Luxemburg, Sweden and the Netherlands)

While employees often have access to income replacement benefits, there are some exceptions for those involved in so-called “**marginal employment**”. A well-known example is the German mini-job scheme (i.e. employment with a monthly salary up to EUR 556 or less than three months / 70 days per year).⁹ Similarly, Luxembourg's legislation also stipulates that employees who are engaged only occasionally in a professional activity are not covered by the sickness benefit scheme, i.e. when the period of the activity does not exceed more than three months per calendar year.¹⁰

Other examples can be found in the Netherlands and Sweden. The Dutch legislation also excludes certain groups of employees from unemployment protection, such as those who work less than four days a week in a private person's household, e.g. cleaners, home

⁹ Section 27 Social Code Book III and Section 8 Social Code Book IV.

¹⁰ Missoc Luxembourg, 2024.

carers, etc., and if they are employed by the private household.¹¹ The Swedish legislation requires that a certain minimum level of income must be reached to qualify for a sickness benefit.¹²

Two comments can be made with regard to the above. It may be sometimes debatable to what extent the different forms of work mentioned are still marginal activities. Furthermore, such exceptions often find their root in administrative difficulties for countries in keeping track of marginal activities; however one could wonder if such rules are still necessary nowadays with more sophisticated IT tools available (Schoukens and Bruynseraede 2021). Moreover, earlier studies stressed the problematic nature of part-time work for women, e.g. in Germany where marginal part-time work was often the sole employment status available to women (Spasova et al. 2017).

The question arises as to how the idea of labour-neutral design can be further operationalised. For example, protection can be offered to all, with specific adaptations facilitated by application rules that take into account the labour situation of particular groups (Schoukens 2000; Battista 2022; Behrendt and Nguyen 2018). This approach has the potential to mitigate labour market distortions by creating a more level playing field (Eichhorst et al. 2013; Battista 2022). One possible approach is to reassess the use of thresholds, asking whether they should be expressed in months or whether alternative durations, such as days or hours, might be more appropriate. In addition, the continued need for minimum thresholds, often driven by administrative concerns, may have to be reconsidered.

Characteristics and needs as a way to grant social protection

The diversity of workers' needs necessitates a nuanced approach to labour status neutrality that acknowledges the complexity and heterogeneity of the labour force. Significant differences exist in workers' characteristics, needs, and capabilities, as well as in the income they earn (see also Battista 2022; Behrendt and Nguyen 2018).

Aranguiz (2024) has noted that some countries often introduce new schemes or systems, or start to make exceptions to existing schemes: "Not only is this approach vulnerable to gaps, obstacles in effective access and a delayed response to the needs of individuals, but, moreover they only offer 'band-aid' solutions". According to Aranguiz, such an approach ignores that these solutions are still far removed from the concept of the standard employment relationship. Such arrangements, Aranguiz argues, are often not suited to the future of the labour market. Moreover, the creation of special arrangements or derogations also entails the creation of unequal forms of treatment in the regulations.

To address the various needs and characteristics of workers, scholars have suggested moving beyond traditional categorisations within social security systems and instead identifying commonalities across different forms of employment (see also Aranguiz 2024; as well as Perulli 2022).

The Italian approach to social protection for solo self-employed workers illustrates this principle by tailoring benefits to specific needs and characteristics. However, while such differentiation allows for a more targeted approach, it also adds layers of complexity to the

¹¹ Art. 6 (1) c) Unemployment Act of 6 November 1986; see the Rotterdam court came to the conclusion in 2021 that the exclusion of domestic workers who are financed by public means is an indirect discrimination on the basis of gender: Court of Rotterdam, 16 December 2021, ECLI:NL:RBROT:2021:12432, as confirmed by Central Council of Appeal, 30 March 2023, ECLI:NL:RBROT:2021:12432.

¹² Missoc Sweden (2024).

overall social security system, which could hinder the effectiveness of the social protection offered.

Box 9. The solo self-employed in Italy

The Italian social security scheme traditionally does not grant protection for the self-employed in case of sickness and unemployment; the increase in solo self-employment and the uncertainty surrounding the notion of economic dependency¹³, however, prompted the Italian legislator to review the protection for the solo self-employed (Del Conte and Gramano 2022 and Villa, Marchi and De Luigi 2022). Relevant for this paper are the categories of heteronomous-organised collaborations and continuous and coordinate collaborations (co.co.co. work arrangements). Heteronomous-organised work is an activity that is continuous, performed mainly by the worker and organised by the employer in a heteronomous manner.¹⁴ The social security legislation for employees applies to this group of workers.¹⁵ Co.co.co. workers, on the other hand, are obliged to carry out their activity in accordance with the methods or organisation agreed upon in the contract, to integrate their work into the productive organisation of the client, but any power or interference by the client in their performance is excluded (see also the discussion in Del Conte and Gramano 2022). Co.co.co. work falls under the broader category of almost-subordinate-employment; such workers can receive protection in case of sickness and unemployment. The social security protection in case of sickness and unemployment for co.co.co. workers show some resemblance to the protection offered for employees, although differences do exist (e.g. the duration and amount in case of unemployment).

Another example is the Swedish umbrella companies often used for platform work (Westregård 2020 and Hartzel 2022).

Box 10. Swedish umbrella companies and platform work

In this system, the client and the worker agree on the work and the remuneration. The umbrella company takes up the role of the employer, and deals with invoicing on behalf of the client, ensures that taxes and social security contributions are paid, and pays the platform worker. The platform worker is therefore most likely considered an employee in relation to income, taxes and social security. However, there is an ongoing discussion on whether these umbrella companies are actual employers.

2.3.2. Solidarity and fair cost distribution

Solidarity is a fundamental principle of social security systems, intricately linked to the concept of fairness, as articulated in the 1992 Recommendation (Article I.A.2). This principle reflects the idea that beneficiaries of social benefits should share the overall improvements in the population's standard of living, while also taking into account the priorities set forward by the policymaker.

¹³ The Covid-19 crisis also served as a catalyst to reflect on the way the Italian social security scheme was organised, as mentioned in the Italian National Action Plan for access to social protection by subordinate and autonomous workers, e.g.: *"New types of working person characterised by extreme heterogeneity and episodicity of the work relationship and the way in which work is performed, a long way from stable and permanent professional statuses."*

¹⁴ Art 2 Legislative Decree no 81/2015; see also Italian Court of Cassation, 24 January 2020, no 1663/2020.

¹⁵ Employment Ministry Circular no. 3/2016 and Italian Court of Cassation, 24 January 2020, no 1663/2020.

In this context, social security systems must also consider how entitlements are built up. Many EU Member States still apply minimum thresholds for access to social security rights. Rethinking or even abolishing these thresholds could help extend protection to groups that might otherwise receive little or no coverage. However, this does not imply that a low number of working hours should result in benefits exceeding what has been paid into the system. While exceptions may apply, the fundamental logic of social security is based on a link between contributions and benefits — a link that should be preserved.

Closely tied to solidarity and fair cost distribution is the question of whether certain forms of flexible work should require higher contributions. In sectors where short-term contracts are prevalent, workers face a greater risk of unemployment. This increased social risk could justify a higher contribution rate, reinforcing the idea that flexibility comes with a cost (De Becker 2024 and Spasova and Ward 2019).

Box 11. Higher contributions rates for certain type of work

Belgium and Portugal

An example can be found in Belgium (2022), where users whose annual use of the special social security scheme for artists exceeds a certain threshold must pay an additional social security contribution. Similarly, employers who surpass the legally established limit on daily contracts for temporary agency workers (2022) are also subject to an extra contribution. Spasova and Ward (2019) a similar measure in Portugal, where employers with a higher-than-average reliance on temporary contracts within their sector were required to pay an additional social security contribution. However, such measures may pose administrative challenges and raise concerns about potential discrimination between sectors.

2.3.3. Proportionality and the prohibition of discrimination

An essential aspect to achieve labour status neutrality is to ensure that the social security system remains accessible, particularly in the light of the prohibition of discrimination. This principle is enshrined in ILO Recommendation 202 and in the right to social security as set out in Article 12(1) ESC.

Closely linked to this is the principle of coherence, which can also be found in recent CJEU case law on the prohibition of sex discrimination in Directive 79/7 for social security (as discussed further in De Becker 2025). The Court's judgments emphasise that social security systems must be applied consistently, ensuring that the protection offered is consistent with the overarching objectives of social protection and non-discrimination. These principles underline the importance of a rational and coherent policy approach, so that exceptions, exclusions, or variations within social security do not inadvertently lead to discriminatory outcomes on grounds of sex.

The principle of proportionality, as referred to in the 2019 Recommendation, has also been further developed by the case law of the CJEU. For example, while social security benefits may be reduced proportionately for part-time workers, proportionality should not be interpreted so broadly as to lead to excessive or disproportionate effects (De Becker 2025).

The guiding principles of reasonableness and proportionality also help to shape the concept of labour status neutrality. Restrictions on social rights should be reasonable, including procedural requirements that are clearly defined in legislation. Furthermore, proportionality and adequacy imply a responsibility for Member States to regularly review their legislation to identify and address potential gaps.

2.3.4. Transparency and administrative simplification

Finally, the international and EU instruments mentioned above also emphasise the importance of transparency and administrative simplification. This principle underlines that social security protection must be easily accessible and clearly defined, while ensuring that the system remains administratively efficient. This idea is explored further below.

3. Transferability and the transition between employment statuses

3.1. Transferability and the 2019 Recommendation

Social security systems vary considerably in their design. In some countries, there are differences in the scope and structure of protection between employees and the self-employed, as well as within the respective schemes for these groups. A key challenge arises from the changing nature of work, which is increasingly characterised by diversified activities and (highly) variable employment patterns (Spasova et al. 2017; European Commission 2018). Transitions between these systems can lead to the potential loss of social security entitlements. To mitigate this risk, social security frameworks often include specific provisions to ensure the transferability of rights. However, it is important to emphasise that working in multiple forms of employment does not always put an individual at a disadvantage compared to those working in a single occupation or business (Monitoring Framework 2019 Recommendation, original version).

Box 12. Situation in terms of job tenure in EU Member States

The 2019 Recommendation monitoring framework (European Commission 2020) underlined that long job tenure remains the norm in EU Member States. 45.8 % of employees have been with their current employer for more than 10 years. Job tenure is generally higher for the self-employed than for employees. The number of employees who have been with their current employer for 4 years or less is 34.7 % (of which 10.9 % for less than one year).

The 2019 Recommendation places particular emphasis on the transferability of rights, a principle further elaborated in Article 10 and Recital 20 and in the Monitoring Framework (European Commission 2020).

Box 13. 2019 Recommendation and transferability of rights

Article 10 of the 2019 Recommendation (as part of the effective access section)

“According to national circumstances, Member States are recommended to ensure that entitlements – whether they are acquired through mandatory or voluntary schemes – are preserved, accumulated and/or transferable across all types of employment and self-employment statuses and across economic sectors, throughout the person’s career or during a certain reference period and between different schemes within a given social protection branch.” (own emphasis)

Recital 20 of the 2019 Recommendation

*“Social protection rights are **not always preserved, accumulated, and/or transferred when individuals are transitioning between different labour market statuses**, for instance going from employment to self-employment or unemployment, combining salaried employment and self-employment, and starting or closing down a business. However, the preservation, accumulation and/or transferability of rights across schemes are crucial in allowing people who combine or change jobs or pass from a worker status to a self-employed status or vice versa to access benefits in contribution-based social protection schemes effectively and to have adequate coverage, as well as to encourage their participation in the case of voluntary social protection schemes.” (own emphasis)*

The above shows that States must take the necessary measures to ensure that entitlements are preserved, accumulated, and/or transferable across all forms of employment and self-employment (European Commission 2020).

The concept of transferability is an integral component of the principle of effective access (see also the report on the implementation of the 2019 Recommendation, European Commission 2023). In this context, effective coverage entails ensuring that entitlements are preserved, accumulated, and/or transferable across several types of employment and self-employment statuses, over time, and between different schemes within a given branch.

Furthermore, transferability is intricately linked to the principle of transparency (see also Schoukens and Bruynseraede 2021; Spasova 2023). Spasova (2023) underscores the need for enhanced access to both generalised and personalised information regarding eligibility criteria, the specificities and risks of voluntary access, the transferability of rights, and the obligations and risks associated with work statuses. While general information is often readily available, this is not always the case for more complex or specific situations. Spasova (2023) further highlights the importance of detailed explanations concerning eligibility and benefit receipt conditions, as well as more comprehensive guidance on rights, obligations, and risks related to specific employment statuses (see also European Commission 2018).

When Member States operate multiple social protection schemes without providing differentiated forms of protection, there is a risk that these systems function in isolation, with limited coordination between them (European Commission 2020). This fragmentation can hinder access to and the transferability of employment-related social protection, discouraging transitions from inactivity to employment, as well as shifts between or combinations of salaried employment and self-employment (Spasova et al. 2017).

The report on the implementation of the 2019 Recommendation highlights the lack of attention given in national reports to improving the transferability of entitlements across different schemes and employment statuses (European Commission 2023). A key finding of the report is the need for a clearer guidance regarding the social security rights attached to various employment statuses. Mapping the rules on transferability across EU Member States remains a complex task, as the implementation report on the 2019 Recommendation also illustrates (European Commission 2023). While some countries operate a general, one-size-fits-(almost)-all scheme, others are only beginning to transition from a highly fragmented system of specific protection schemes towards a more integrated framework.

3.2. Transferability and the complexity of multiple employment statuses

Various challenges can arise when individuals transition between or simultaneously hold different employment statuses over time.

First, access to social protection may be restricted if individuals do not meet the minimum requirements for working hours or income necessary to qualify for entitlements under the social security system. While this issue is not explored in detail in this paper, it is crucial to critically examine the underlying reasons for such exclusions and assess their desirability. Additionally, caution is warranted regarding the potential proliferation of marginal employment statuses that provide little to no social protection. If such exemptions persist while these forms of employment become more prevalent in the labour market, gaps in coverage may generate significant economic insecurity for individuals and pose financial risks to the sustainability of social protection systems.

Second, the extent to which individuals can combine social security entitlements is often unclear in EU Member States. For instance, consider a worker holding two part-time jobs who loses one of them—would they be entitled to unemployment benefits? Many EU Member States impose restrictions on the combination of earned income and unemployment benefits, permitting it only under specific conditions, such as when the work is temporary or limited in scope. Furthermore, case law of the CJEU shows that certain restrictions in accessing social security rights out of different social security schemes can lead to sex discrimination prohibited under Directive 79/7.

Box 14. Multiple employment statuses and EU discrimination law

In the case of *KM v Spain*¹⁶, the CJEU ruled that Spanish legislation, which only allowed pensions from different social security schemes to be aggregated, was contrary to Article 4(1) of Directive 79/7. This difference in treatment appeared to favour workers who had acquired pensions under several social security schemes, while disadvantaging those who, although meeting the same eligibility criteria, had acquired their pensions under a single scheme and were therefore unable to combine them.

Although national data were limited, the available statistics indicated that women were disproportionately affected by this restriction (para. 43-52). The Spanish legislature justified the measure on the basis of concerns about long-term financial sustainability (para. 59). However, the CJEU found that the budgetary impact of allowing the combination of pensions did not appear to differ significantly depending on whether the pensions were from the same or different schemes, in particular where workers had acquired rights through different periods of contribution (para. 64). The Court also found that the national measure was not applied in a consistent and systematic manner (para. 65).

The principle of transferability raises several additional questions, as also highlighted by the European Commission in the impact assessment accompanying the 2019 Recommendation (European Commission 2018; see also Schoukens 2020):

- What happens if an individual has accrued rights under scheme A, but subsequently moves to scheme B? Can those accrued rights still be exercised? A potential

¹⁶ CJEU, Case C-625/20, *KM v. Spain*, 30 June 2022, ECLI:EU:C:2022:132.

problem arises if transferability is not ensured, leading to the risk of losing previously acquired rights.

- Another challenge arises where an individual has contributed to scheme A but later transfers to scheme B. Can the periods worked under Scheme A count towards the qualifying period required under Scheme B? As entitlement to benefits in the new scheme is usually based on contribution history, a lack of transferability may result in previously acquired rights being disregarded. This issue illustrates how gaps in transferability can create barriers for individuals moving between employment and self-employment, particularly where these statuses are covered by separate schemes.

The challenges identified here are similar to those faced by individuals working in several EU Member States, where the coordination of social security schemes is governed by EU Regulation 883/2004.¹⁷ When individual cross borders, they risk losing acquired social security rights or encountering conflicts between these rights and territorially harmonised rules. To mitigate these conflicts, various coordination instruments exist at both the EU and international levels, including Regulation 883/2004 at the EU level. Coordination includes notably the following principles:

- Protection of the accrual of rights, safeguarding workers' ability to build entitlements over time;
- Protection of acquired rights, facilitating the exportability of social security benefits; and
- Administrative cooperation, ensuring coordination between national authorities.

These three principles—protection of the accrual of rights, protection of acquired rights, and administrative cooperation—are particularly relevant when addressing challenges related to different employment statuses. They offer a framework for internal coordination and help resolve issues concerning the preservation and transferability of entitlements.

3.3. Solutions

3.3.1. Preservation and accumulation of rights

Schoukens identified several mechanisms to facilitate the smooth transfer of social security rights and to address legislative gaps that impede transferability and the coordination between different schemes (2020).

The preservation and accumulation of rights present a greater challenge in countries with multiple social security schemes, where coordination between systems is more complex. A similar observation was made by Avlijaš, who emphasised the distinctions between Bismarckian systems, which are primarily contributory and employment-based, and more universal systems that provide coverage regardless of employment status (2021).

¹⁷ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, OJ L. 166, 30 April 2004, p. 1–123.

Box. 15 Mechanisms ensuring the continuity and transferability of social security rights (as discussed in Schoukens 2020)

- Rules with after-effect: These provisions ensure that benefits continue to be paid even when an individual is no longer insured under a specific scheme. In many cases, professional schemes include an after-period during which entitlements can still be opened.
- Protection of rights in the course of acquisition: This mechanism allows for the aggregation of insurance periods from a previous scheme with those from the current scheme to establish entitlement.
- Dormant participants (often applied in pension schemes): Individuals who have contributed to a pension scheme for a certain period but later left the scheme do not lose their claims. Once they fulfil the eligibility criteria, they remain entitled to benefits.
- Transfer of previously accrued rights: This principle allows for the transfer of entitlements from one scheme to another, ensuring that previously fulfilled contribution periods are recognised with equivalent legal value in the new scheme.
- Rules governing the simultaneous performance of multiple activities: These provisions regulate social security rights for individuals who are covered under multiple schemes due to engagement in diverse forms of employment.

3.3.2. Towards greater harmonisation across schemes?

Another approach to improving the coordination of social security systems is the harmonisation of schemes. The coordination rules discussed earlier are often complex and can lead to practical difficulties in their application. Schoukens highlights the "once-in-a-lifetime change of scheme" assumption embedded in these rules, which contrasts sharply with the current reality of increasingly volatile labour markets (Schoukens 2020). As a result, some countries have opted to consolidate multiple systems into a single scheme rather than merely building coordination mechanisms between them. In this model, separate schemes are aligned or even integrated into one general system that applies to all professional groups (Schoukens 2020).

For certain social risks, a more universal approach to social protection may be preferable. This is particularly evident in areas such as healthcare and family benefits, where comprehensive coverage is often more efficient than employment-based entitlements.

Box 16. Extending the coverage for healthcare in France and Belgium

For example, France introduced universal health protection in 2016 to improve access to healthcare. Before this reform, approximately 2 million workers who changed jobs across sectors had to transfer their healthcare coverage between different insurance regimes. The 2016 reform established automatic healthcare coverage based on residency status, significantly simplifying entitlement conditions. Employees no longer need to meet minimum activity requirements, and self-employed workers are entitled to full healthcare coverage from the beginning of their professional activity.

This reform also eliminates dependency on the insurance status of a wage-earning spouse or parent. Spouses and children, who were previously classified as dependent relatives, now automatically obtain individual health coverage at age 18, preventing gaps in protection due to changes in professional or personal circumstances (see the discussion in Avlijaš 2024).

In contrast, Belgium continues to maintain a professional-based social protection system, although it has progressively expanded towards a near-universal model. Article 32 of the Coordinated Act of 14 July 1994 on Mandatory Health Insurance and Benefits defines the personal scope of healthcare reimbursement. Over time, this scope has been extended to cover nearly all individuals, creating an almost universal system. However, this act still defines eligibility based on professional status, listing different categories of eligible persons. This creates administrative complexity, as eligibility must always be determined based on whether an individual has acquired their own rights or qualifies as a dependent relative.

Also, for income replacement benefits, a shift towards greater harmonisation can be noticed in several EU Member States. Several countries have expanded social protection traditionally reserved for employees to include the self-employed or other previously excluded groups (Spasova et al. 2017). Some have gone further by integrating all types of earnings into a single account. Individual social security accounts, for example, are emerging as a key instrument for preserving and transferring rights while improving transparency for individuals. However, such accounts are currently implemented in only a limited number of countries, such as Latvia and France (Spasova et al. 2017, see also Ireland: European Commission 2018 and Poland: Chłoń-Domińczak and Sowa-Kofta 2022).

Box 17. Latvia – Individual Accounts

In Latvia, social insurance contributions are accumulated in individual accounts, ensuring that entitlements are retained even when workers transition between different employment statuses (see also Behrendt and Nguyen 2018). Latvia's social insurance system is fully individualised, with each person's contributions recorded in a separate account. This system ties acquired rights to the individual rather than their employment contract, ensuring that when workers move from a more regulated employment relationship (e.g., a permanent job) to self-employment, they may accumulate fewer rights but do not lose previously accrued entitlements. However, Latvian experts point out that this approach minimises redistribution, which could undermine broader principles of solidarity within the social protection system (Spasova et al. 2017).

A similar approach has been adopted in France, particularly for pension schemes (see also Poland, Chłoń-Domińczak and Sowa-Kofta 2022). As outlined in the Impact Assessment of the 2019 Recommendation (European Commission 2018), France introduced reforms aimed at facilitating transitions between employment statuses by extending compulsory insurance and standardising multiple schemes.

Box 18. France – Individual Pension Accounts

Since January 2017, France has implemented the Personal Activity Account (*Compte Personnel d'Activité*, CPA), which integrates various types of earnings into a single account (as discussed in Spasova et al. 2017; European Commission 2018; ILO and OECD 2018).

The CPA aims to:

- Improve the management of pensions, lifelong learning entitlements, and time-saving schemes;
- Merge three pre-existing accounts, allowing individuals to accumulate points for professional training, education, unused leave, and physically demanding work;
- Decouple social protection rights from labour market status and attach them directly to the individual; and
- Enhance the portability and transferability of rights, ensuring greater security throughout professional career transitions.

The goal of this reform is to move away from a model where social rights are contingent on employment status, shifting towards a system where each individual retains their social benefits in the form of "points", regardless of their employment status. This enhances knowledge of entitlements, simplifies administrative processes, and allows individuals to simulate future contribution scenarios and benefit amounts. For example, unused leave days can be converted into additional training entitlements. The system was introduced for employees in 2017 and extended to the self-employed in 2018.

Similar discussions on the individual account are taking place internationally. According to the OECD and ILO (2018), the French CPA aligns with broader efforts to adapt social protection to non-linear career paths by making social security entitlements more transferable between employment statuses.

The OECD and ILO (2018; see also OECD 2018) highlight several critical questions that arise from this shift, including:

- To what extent should redistribution be incorporated to ensure that all workers benefit?
- How can risk pooling be maintained within individual-based systems?
- What roles should employers and the state play in financing such mechanisms?
- How should entitlements be allocated between different purposes, such as training, career breaks, and retirement benefits?

This shift reflects a broader trend towards the individualisation of social protection, which entails detaching social security contributions from traditional employment relationships (Kool, Bordon and Gassmann 2021). Under this model, all contributions—whether made by the worker, employer, or state—are recorded in a single individual account. However, concerns remain regarding the potential consequences of this approach, particularly in terms of redistribution, solidarity, and collective social protection mechanisms.

4. Concluding remarks

The aim of this paper is to explore how labour status neutrality can be implemented to ensure equal protection and preserve entitlements across different employment statuses within social security systems.

The paper begins by positioning the concept of labour status neutrality within EU policy and the broader regulatory framework. This concept is clearly embedded in the 2019 Recommendation, which underscores the universality of social security rules while allowing for occupation-specific adaptations.

Furthermore, the paper links labour status neutrality to the right to social security and universal social protection. Various international human rights instruments provide elements that can help further define and shape the concept of labour status neutrality. However, ambiguity remains regarding its precise implementation. We emphasised the need for universality, solidarity, non-discrimination, coherency, and transparency as key guiding principles.

The paper identified several principles that can assist Member States in operationalising labour status neutrality and ensuring adequate social protection:

- Universal protection and a neutral system design;
- Solidarity and fair cost distribution;
- Proportionality and the prohibition of discrimination; and
- Transparency and administrative simplicity.

These principles require careful consideration of the following aspects:

- Defining the scope of protection when a social risk occurs;
- Determining eligibility criteria based on characteristics and needs rather than traditional classifications;
- Ensuring solidarity and fair cost distribution within the social security system, with special attention to vulnerable groups; and
- Balancing rights and obligations in social protection without creating excessive access barriers, while respecting the prohibition of discrimination.

Another key challenge examined in this paper is the evolving nature of work and its impact on the transferability of social security rights. The complexity of transferring and preserving rights across different employment statuses remains a difficult puzzle to solve. The issue of transferability has multiple dimensions, making it challenging to comprehensively map existing rules. As noted by the European Commission, this area has so far received limited attention. A review of MISSOC tables also confirms the difficulty in capturing a coherent overview, given the fragmented nature of rules regarding the personal scope, eligibility criteria, benefit accumulation, and income cumulation with social security benefits.

A first step in addressing this issue is to systematically map existing rules, define the level of protection to be provided, and develop a simplified approach to ensure effective implementation. In doing so, Member States could consider a more consistent regulatory framework based on clear overarching principles that apply across different social risks. Such an approach would provide insured individuals with a better understanding of the rationale behind social protection measures and the way rights are accumulated. Additionally, certain exclusions, such as those related to marginal employment, could be reconsidered to ensure a more inclusive and equitable system.

In several EU Member States, discussions on the harmonisation of social security schemes are ongoing. It can be a viable option to consolidate multiple systems into a single scheme rather than merely building coordination mechanisms between them.

Beyond harmonising social security schemes, some Member States are also considering the harmonisation of individual accounts. However, when designing such systems, due attention must be given to redistribution and solidarity within the broader social security framework. Additionally, concerns arise regarding the potential rigidification of entitlements, as individuals may come to expect that their individually accumulated rights will remain entirely unchanged over time.

Finally, social security systems must retain a degree of flexibility to allow for necessary adjustments in response to demographic changes, economic challenges, or other structural shifts. The right to social security and other fundamental rights, such as the right to property, provide room for such reforms, ensuring that social protection systems remain both sustainable and adaptable.

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