



Sociedad Internacional de Derecho del Trabajo y de la Seguridad Social

XXIII Congreso Mundial

7 - 10 de Septiembre de 2021 - Lima, Perú

# RETOS DE LOS SISTEMAS DE LEGISLACIÓN LABORAL Y SEGURIDAD SOCIAL

- Transformación del trabajo: desafíos para el Derecho del Trabajo
- Comercio internacional y trabajo
- Nuevos retos de la Seguridad Social
- Trabajadores migrantes
- Trabajadores atípicos e informales
- Igualdad en el trabajo
- El Estado y las nuevas formas de voz colectiva



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**NUEVOS RETOS DE LA  
SEGURIDAD SOCIAL**

**NEW CHALLENGES OF  
SOCIAL SECURITY**

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# **NEW CHALLENGES OF SOCIAL SECURITY**

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## I. INTRODUCTION

To prepare this report, the members of the Working Group «New Challenges of Social Security»<sup>1</sup> were contacted and asked to consider what issues related to Covid-19 with implications for social security law seemed germane to them. Obviously, we agreed that the impact of the Covi-19 crisis should be the main subject of the report. The relevant social security law issues may have been already present before or exacerbated by the crisis as well as they may have newly emerged as a result of Covid-19 and now require appropriate resolutions. The representatives of the various countries were asked to make a concrete and substantial contribution regarding their countries on the topic they had selected. In total, twelve members of the Working Group provided a comprehensive report on the relevant social security law issues related to Covid-19. While compiling the articles of the different countries, several additional questions emerged, which is why some of the members of the Working Group were asked to give a further assessment of the specific topics in order to complete the report.

To supplement this report, further studies from other countries were considered. For this purpose, the special issue from Noticias Cielo<sup>2</sup> concerning the social consequences of Covid-19 in the form of a comparative law overview was consulted. Based on this contribution, reports from 34 countries, partly overlapping with the countries of the twelve members of the Working Group, could be reviewed. Where information from these reports has been included, the source is indicated in the footnotes below the text. In order to complete the last open questions, especially regarding the assistance provided by self-employed persons, the report was further refined with a general research. We used scientific publications and reports from international organisations.

This report first describes different policies from different international organizations as responses to Covid-19. Furthermore, it illustrates the financing tests or vaccinations and the loss of earnings in the event of quarantine through

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1 Members of Research Group «New Challenges in Social Security».

2 <https://mailchi.mp/cielolaboral/noticias-cielo-no-532172?e=933b929ef2>

social security. Moreover, it describes the short-time work and unemployment benefits in the different countries and finally ends with a short reflection and conclusion. Special attention will also be paid to the social protection of the self-employed (during the pandemic).

## II. POLICIES FROM INTERNATIONAL ORGANIZATIONS

Many organizations were quick to respond to everything related to Covid-19 in the context of the social security law. In this report, however, attention is paid only to those contributions that have a certain topicality, what means, they were published at the end of the last year or preferably this year. As a result, this text focuses mainly on the reports about the second and now impending third wave.

The ILO highlights the pandemic's ongoing and devastating impact on jobs and incomes, as well as the labour market disruptions caused by Covid-19. In response, policymakers must maintain support for jobs and incomes in the coming months and well into 2021, maintaining the key challenges of getting the balance and sequencing of health, economic, and social policies right. Policies must provide the maximum support to vulnerable and hard-hit groups, including migrants, women, young people and informal workers.<sup>3</sup> Restoring solid and sustainable growth in national income is a necessary but not sufficient condition for successfully overcoming the crisis, especially given the very different impacts on different employment categories, socio-economic groups, sectors and regions. Policymakers must address income losses, devote international attention to measures to support poorer countries, protect those vulnerable populations, incorporate a balanced sectoral policy dimension into recovery strategies, and promote the social dialogue.<sup>4</sup> The crisis has revealed gaps in existing social protection systems due to problems inherent in today's world of work, particularly with regard to increasing precarious employment and growing inequality. Social security systems should effectively guarantee access to health care and income security for the entire population. Income security should be available in all situations of income loss, including involuntary reduced hours, unemployment, illness (including quarantine) and increased family responsibilities. Social security should be extended to workers in all types of employment,

3 ILO Monitor, Covid and the world of work. Sixth Edition, 23 September 2020.

4 ILO Monitor, Covid and the world of work. Seventh Edition, 25 January 2021.

including atypical employment. It is important to ensure a well-informed social dialogue as an important and effective mechanism to formulate social security responses to the Covid-19 crisis.<sup>5</sup>

The Council of the EU issued, that policy measures should be tailored to country-specific circumstances and be timely, temporary and targeted. Member States should continue to coordinate actions to effectively address the pandemic, support the economy and promote a sustainable recovery. As soon as the pandemic and economic situation allow, the emergency measures should be phased out while addressing the impact of the crisis on society and the labour market.<sup>6</sup> The motto is securing employment and income for all, the workers must be considered a priority. Deeper institutional and policy reforms are needed to strengthen recovery and build resilience through robust and universal social protection systems, that can act as automatic economic and social stabilisers in the event of a crisis. Special attention and measures are also needed for groups outside the labour market who are already experiencing poverty.<sup>7</sup>

The UN urgently recommends further action to limit transmission of Covid-19 and ensure access to care for Covid-19 patients to reduce deaths. It is about strengthening national and global pandemic preparedness and striving for healthy societies in the future. Universal health coverage is built on the foundations of equity and can be a powerful social equalizer if countries move quickly and equitably to full population coverage. It has proven to be a catalyst for economic growth, benefiting individuals, families, communities, businesses and economies. Good health is both an outcome and a driver of economic and social progress.<sup>8</sup> A WHO factsheet suggests that general gaps still need to be addressed to achieve poverty and income inequality reduction targets. The following two policy responses to the pandemic stick out as candidates for a long-lasting change in the European health systems: breaking the link between

5 ILO, Assessment of the Social Security Responses to Covid-19, 2021.

6 Communication from the commission to the council; One year after the COVID-19 outbreak - the fiscal policy response, 2021.

7 European Economic and Social Committee, Resolution on the «EESC proposals for reconstruction and economic recovery after the Covid-19 crisis: ‘The EU must be guided by the principle that it is a community of destiny’» based on the work of the Subcommittee on Economic Recovery and Reconstruction after the Covid-19 Crisis, 2020.

8 UN, Policy Brief: Covid-19 and the universal health coverage, October 2020.

entitlement to health care and payment of contributions and excluding poor people and people with chronic conditions from co-payments.<sup>9</sup>

### III. FINANCING OF THE COSTS FOR TESTS / VACCINATIONS AND LOSS OF EARNINGS IN THE EVENT OF QUARANTINE BY THE SOCIAL INSURANCE FUNDS (EACH EMPLOYEE + SELF-EMPLOYED PERSON)

#### 1. Financing of tests and vaccinations

In order to effectively combat the pandemic and its consequences, many countries have relied on a pronounced testing and vaccination strategy. In this context, the immediate question arises as to who has to bear these costs.

In principle, the costs of vaccination do not have to be carried by the patient. In certain countries, the costs are covered by social security (e.g. in Korea<sup>10</sup>, where social security covers at least 70% and government takes care of the remaining payment). Meanwhile, other countries cover the costs of vaccinations through the government, as for instance Lithuania<sup>11</sup>, Slovenia<sup>12</sup> and Japan.<sup>13</sup> In other countries like France, vaccination is free for all, because the government considers that no one should give up vaccination or financial reasons.<sup>14</sup> In Uruguay, the costs of vaccination are also paid by the state.<sup>15</sup>

Regarding testing, different approaches can also be found. Again, in general, the tests do not have to be paid for by the individual. This applies at least to the extent to which the tests are medically indicated and not used for recreational trips or similar. The government bears the costs for instance in Slovenia and Korea,<sup>16</sup>

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- 9 WHO, Covid-19: a stark reminder of the importance of universal health coverage, 11-12-2020.  
 10 Bok-gi Kim, E-Mail from 26.4.2021 regarding «The Social Security Response to COVID-19 in Korea».  
 11 Audrius Bitinas, E-Mail from 21.4.21 regarding «Occupational pensions in Lithuania: regulation and problems».  
 12 Luka Mišič, E-Mail from 28.4.2021 regarding «COVID-19 Related Measures in the Field of Social Law Adopted in Slovenia».  
 13 Masahiko Iwamura, E-Mail from 8.5.2021 regarding «Replacement Incomes Introduced Due to Economic Impacts of COVID-19 in Japan».  
 14 Sophie Selusi, E-Mail from 18.6.2021 regarding «Addition to the Report».  
 15 Àlvaro Rodríguez Azcùe, Mail from 21.6.2021 regarding «Additions to the Report».  
 16 Luka Mišič, E-Mail from 28.4.2021 regarding «COVID-19 Related Measures in the Field of Social Law Adopted in Slovenia»; Bok-gi Kim, E-Mail from 26.4.2021 regarding «The Social Security Response to COVID-19 in Korea».

while in Belgium and Uruguay the health insurance fund covers the costs.<sup>17</sup> In Uruguay the Ministry of Public Health then reimburses them the costs, what means, that the cost of Covid-19 testing is borne entirely by the State.<sup>18</sup> Japan, for example, takes a middle course and shares the costs between the government and the health insurance fund; the latter pays 70-90% depending on the age and annual income of the person concerned.<sup>19</sup> In Belgium the competence in care and health/wellbeing and prevention falls within the regional competences which leads to the regions paying for the costs within the framework of their budget.<sup>20</sup> In France, PCR and antigenic tests are fully covered for everyone. The coverage does not depend on the reason for requesting the test.<sup>21</sup>

## 2. Financing of loss of earnings in quarantine cases or in the context of childcare during school closures

Many countries faced new problems during the Covid-19 pandemic, especially when workers were unable to attend work due to an ordered quarantine. This circumstance is to be distinguished from workers having to stay at home due to illness (isolation). Where measures against the coronavirus included school closures, issues also arose about how to deal with working parents who had to stay at home for childcare.

Most of the countries provide some form of benefit for a loss of income during an ordered quarantine or if a parent cannot attend work while taking care of his child, whether it be in the sense of daily allowance, paid leave, unemployment benefit, sickness benefit or benefits in any other form. In certain countries the benefits were issued directly to the individuals while in others the benefits were paid to the employers which were therefore able to pay their employees.

Whatever the form of the benefit, the question for self-employed workers was whether they were also included in these benefits. The regulations were

17 Yves Jorens, E-Mail from 23.4.2021 regarding «Belgian Social Security Facing the Coronavirus Crisis»; Álvaro Rodríguez Azcúe, E-Mail from 21.04.2021 regarding «Measures Taken in the Uruguayan Legal System to Address the COVID-19 Pandemic from the Perspective of Social Security Law».

18 Álvaro Rodríguez Azcúe, Mail from 21.6.2021 regarding «Additions to the Report».

19 Masahiko Iwamura, E-Mail from 8.5.2021 regarding «Replacement Incomes Introduced Due to Economic Impacts of COVID-19 in Japan».

20 Yves Jorens, E-Mail from 23.4.2021 regarding «Belgian Social Security Facing the Coronavirus Crisis».

21 Sophie Selusi, E-Mail from 18.6.2021 regarding «Addition to the Report».

often extended to allow the self-employed access to said benefits. However, this is not the case everywhere; for instance, in Japan, where self-employed workers do not get a cash benefit in case of an ordered quarantine.<sup>22</sup> Further, in Korea employed workers can apply for family care leave and get supported by the government whereas a self-employed parent does not have any specific options other than receiving general compensation or support such as child allowance or children's care coupons.<sup>23</sup> In Uruguay, self-employed workers have whether the right to access any benefit in the event of mandatory quarantine, nor in the case that they cannot work due to attending family care tasks.<sup>24</sup>

Even though in various countries benefits have been extended and made available to the self-employed, the conditions and the precise provisions often differ from those applicable to the employed. Self-employed persons forced to quarantine in Lithuania only get access to a benefit if they are formally registered as being self-employed and their business (in case of a legal entity) is not bankrupt or insolvent.<sup>25</sup> It is necessary to be covered under mandatory sickness insurance, which is not always the case for self-employed. In France parents who are unable to telework, will be able to benefit from a replacement income from the first day of their work stoppage, and at the latest until the end of the isolation period. This also applies to self-employed workers and contractual workers under public law, so that they will benefit from daily allowances after having filed their declaration on the platform.<sup>26</sup>

The pandemic has demanded constant adaptation and finding new solutions, while taking into consideration as many people as possible. While Slovenia initially has not included the self-employed in its support scheme, self-employed are now covered by their fifth anti-corona package of October 23 2020 by having access to compensation benefits.<sup>27</sup>

22 Masahiko Iwamura, E-Mail from 8.5.2021 regarding «Replacement Incomes Introduced Due to Economic Impacts of COVID-19 in Japan».

23 Bok-gi Kim, E-Mail from 26.4.2021 regarding «The Social Security Response to COVID-19 in Korea».

24 Àlvaro Rodríguez Azcùe, Mail from 21.6.2021 regarding «Additions to the Report».

25 Charles Szymanski & Gertruda Cepulyte, Labour Law and the Covid-19 pandemic: Lithuanian responses, p. 3.

26 Sophie Selusi, E-Mail from 18.6.2021 regarding «Addition to the Report».

27 Sara Bagari, E-Mail from 9.5.21 regarding «COVID-19 Related Measures in the Field of Social Law Adopted in Slovenia».

In Belgium the support in cases of quarantine or school closures is provided by the system of unemployment benefits. To fit the current situation, the so-called «bridging benefit», a kind of unemployment benefit for self-employed in cases of bankruptcy etc., was expanded. To receive compensation the work has to be interrupted for at least seven days while working from home must be impossible.<sup>28</sup>

#### **IV. SHORT-TIME WORK AND UNEMPLOYMENT BENEFITS (EACH EMPLOYEE + SELF-EMPLOYED PERSON)**

##### **1. Employee**

The EU provided support for short-time work and temporary lay-offs for the first time in the context of the economic financial crisis in 2007/2011 and were now further attenuated and extended (Poland, Lithuania, Hungary, Greece). Often the State guarantees that eventual reductions in wage are avoided: employees can keep their standard of living and are still able to spend money so that the economy will not shrink even further; for employers redundancy costs are avoided with a clear shift from employers to the State; for the State short-time work is often less expensive than paying unemployment benefits; employers obtain a great flexibility in arranging the employment situation of their employees and are able to adapt to economic fluctuations.<sup>29</sup> The Commission's policies culminated in EU Regulation 2020/672 of 19 May on establishing a European temporary support instrument to mitigate the risks of unemployment in an emergency (SURE) following the outbreak of Covid-19 and which establishes a reinsurance mechanism, a line of financing to Member States to prevent unemployment with a total budget of €100 billion. A line intended, as its art. 1 underlines, to finance «principally, short-time working schemes or similar measures designed to protect employed and self-employed workers and thereby reduce the incidence of unemployment and income loss», as well as, «on an ancillary basis, certain health-related measures, in particular in the workplace».<sup>30</sup>

28 Quentin Detienne, Fabienne Kéfer, *Belgian Social Security Facing the Coronavirus Crisis*, p. 8.

29 Yves Jorens (Ghent University, Belgium)/Grega Strban (University of Ljubljana, Slovenia), *Contemporary Legal and social Challenges*, pp. 5 ff.

30 David Lantaron Barquin, *Union Europea, pandemio y relaciones de trabajo*, pp. 5.

In Spain and Finland, the implementation procedure and the employee consultation period were shortened or in some countries the system could be relied on much easier (a lower percentage of employees had to be affected like in Germany or the scope had been extended to all workers and sectors, for instance in Italy, Malta, Luxembourg, the Netherlands) so that the interpretation of an entrepreneurial risk is extended and that situations of decline in profit might also be taken into account.

In Spain RDL 8/2020 introduced, with the same objective of avoiding dismissals and thus preserving employment, extraordinary procedures for the suspension of contracts and reduction of working hours due to force majeure, or for economic, technical, organizational and production reasons, as a consequence of or related to the Covid-19. These measures are subject to the company's commitment to maintain employment for a period of six months from the date of the resumption of activity.<sup>31</sup>

The package of Netherlands holds measures to safeguard incomes and salaries as a temporary emergency bridging measure to preserve employment including a temporary subsidy scheme as a contribution towards wage costs in order to maintain jobs in exceptional circumstances as well as compensation for entrepreneurs in affected sectors.<sup>32</sup> In Estonia and the UK, a completely new temporary short-time working scheme was set up. Meanwhile, the UK is no longer part of the EU, the rules remain the same. Croatia and Ireland introduced an income support scheme providing a wage subsidy to companies that have to suspend their activities. In Austria and Germany, short-time work benefits have long been used in cases of complete loss of work.<sup>33</sup> The main purpose of this allowance in Germany is to enable employees to continue working and to avoid redundancies if they are temporarily unable to work.<sup>34</sup> In Austria, workers having reduced their working hours by up to 90% still receive the majority of their normal wage and the employer receives an allowance from the public employment system. The granting of short-time work is subject to various conditions, as the employer must not terminate employment relationships for operational

31 Rafael Gomez Cordillo, COVID-19. Un año de hiperactividad normativa en materia sociolaboral en España, pp. 4.

32 Beryl ter Haar/Hanneke Bennaars, The Netherlands and COVID-19 measures in the field of labour law, pp. 2 ff.

33 Lorena Ossio, Email from 6.7.21 regarding «Contribution to the report».

34 Bernd Waas, Covid-19: Labour Law and Social Security Law Measures in Germany, pp. 1 f.



reasons during the funding period. The number of employees must therefore be maintained at the level as before the start of Covid-19 short-time work. In addition, statutory vacation entitlements from previous years and time credits of the employees should be reduced. Nevertheless, employers are only obliged to offer this consumption to the employees.<sup>35</sup>

Several countries have increased the amount these workers receive. The Belgian legislator, like a large proportion of its European counterparts, has preferred to treat the absence of work as a suspension of the contract due to force majeure, which has two kinds of implications. Firstly, the periods not worked are not counted as annual holidays or treated as an anticipation of public holidays; nor will waged workers have to compensate for them through additional work once the crisis is over. Secondly, the Welfare State ensures that their income is supported through a derogatory temporary unemployment scheme. Not only are the conditions for accessing benefits eased and the formalities simplified, but the amounts granted are higher than in the ordinary regime.<sup>36</sup> Statutory civil servants have not been the target of any income support measures. There is already a social security system.<sup>37</sup>

In France, whereas the compensatory indemnity paid to employees in partial unemployment is normally limited to the minimum wage, the government will now fully support (100%) it up to 4.5 times the minimum wages. The employer must apply to the administrative authority. If they accept the application, the employer must pay the employee compensation, which is not subject to social security contributions. In return, the employer receives an allowance co-financed by the State and UNEDIC.<sup>38</sup> Partial activity is a public policy tool to prevent economic layoffs, allowing employers in difficulty to cover all or part of the cost of their employees' remuneration. Government has decided to structurally transform the partial activity system, to provide France with a highly protective system.<sup>39</sup>

35 Elisabeth Brameshuber/Phillipp Ondrejka, The impact of COVID-19 on labour and social security law in Austria, pp. 1 ff.

36 Quentin Detienne/Fabiennn Kéfer, Belgian Social Security Facing the Coronavirus Crisis, pp. 1.

37 Quentin Detienne/Fabiennn Kéfer, Belgian Social Security Facing the Coronavirus Crisis, pp. 2.

38 Camille Percher, Réaction du droit social français à la COVID-19, pp. 2 f.

39 Sophie Selusi, E-Mail from 18.6.2021 regarding «Addition to the Report».

In Denmark, Hungary, and Greece, temporarily unemployed employees will now receive 100% of their wages.<sup>40</sup> In Denmark compensation from the state constituted 90% of salaries for each full-time employee who would otherwise be dismissed due to lack of work (75% for white collar workers), capped at maximum DKK 30.000 (EURO 4.000) per month. Employers paid the remaining 10% of the salaries (25% for white-collar workers). Employees contributed with 5 days of holidays.<sup>41</sup> The scheme in Hungary resembled the German-type short-time work, but it was less generous. The wage subsidy was transferred directly from the state to the employee while the reduced wage was paid by the employer. Over the course of the existence of the scheme, its eligibility criteria were progressively eased, so that the number of beneficiaries increased significantly. During the second wave more targeted support schemes has come in the forefront.<sup>42</sup> Where, during the extraordinary epidemic situation, the employer in Bulgaria preserves the employment relationships with the workers and employees under Art. 120c LC, the latter receive the full amount of the gross labour remuneration they used to receive prior to the extraordinary situation being declared (Art. 267° LC).<sup>43</sup> In Slovenia the first anti-corona package introduced reimbursement benefits for (private sector) employers who temporarily could not offer work to their workers due to the epidemic, were thus obliged to pay income replacement benefits to workers, and who will have fulfilled conditions regarding the loss of revenue.<sup>44</sup>

The ACEP in Georgia included stimulus package for employers to preserve jobs. Employers who retain jobs were fully exempted from income tax on salary payments of up to 750 GEL for the period of six months.<sup>45</sup> In Poland, benefits from the state related to economic downtime or reduction in working time are granted for a total period of 3 months due to the Anti-Covid-Act. This has provided for certain forms of assistance to persons employed under civil law

40 Yves Jorens (Ghent University, Belgium)/Grega Strban (University of Ljubljana, Slovenia), *Contemporary Legal and social Challenges*, pp. 5 ff.

41 Natalie Vodebaek Munkholm, *The Covid pandemic in Denmark*, pp. 3 ff.

42 Attila Kun, HUNGARY – The impact of the labour law measures taken by the authorities: reflections one year after the official recognition of Covid.19 as a pandemic, pp. 4.

43 Vassil Mrachkov, Bulgaria: An overview of Labour Law under COVID-19 Conditions, pp. 2.

44 Luka Mišič/Sara Bagari, COVID-19 related measures in the field of social law adopted in Slovenia, pp. 3.

45 Zakaria Shvelidze, *Covid-19 Pandemic and Labour Law Restrictions and Social Impacts in Georgia*, pp. 3.

contracts. In return, the entrepreneur is expected to keep the employees covered by the subsidies.<sup>46</sup>

One of the most important measures taken by the Portuguese government in the context of the pandemic was the creation of exceptional and temporary financial support aimed at maintaining jobs. Access to this support allowed employers to maintain their jobs, choosing either to reduce normal working periods or to suspend work contracts. In turn, employees would be entitled to a compensation corresponding to 2/3 of their wages. Another measure was the support for the progressive resumption of activity in companies in a situation of business crisis which aimed at companies with a drop-in turnover of at least 40%. Under this support, during the reduction of the normal work period, the worker is entitled to receive the corresponding remuneration for the hours worked, as well as a monthly compensation up to three times the SMN, in the amount of 2/3 or 4/5 of the normal gross remuneration corresponding to the hours not worked, in the months of August and September 2020, and in the months of October, November and December 2020.<sup>47</sup>

Also, in Romania one of the most important measures adopted by the government is the payment of technical unemployment from the budget, up to 75% of the gross salary of employees in specific sectors.<sup>48</sup> Due to the restrictions implemented to counteract the spread of the Covid-19 disease, one important social security measure in Estonia introduced by the government to protect employee's incomes is the payment of the wage compensation to employees.<sup>49</sup> In Switzerland, as an example for a «non-EU-country», unemployment insurance, which is mandatory for all employees, uses the instrument of short-time work as well. Employees receive 80% of their wages from the unemployment insurance and can thus keep their jobs. Even temporary employees or persons in employer-like positions have a right to short-time work compensation.<sup>50</sup>

46 Jakub Stelina, *Anti-Covid labour law regulations in Poland a year after the start of the coronavirus epidemic*, pp. 3 ff.

47 Tiago Pimenta Fernandes, *O impacto da COVID-19 nas relacoes de trabalho em Portugal*, pp. 1 ff.

48 Nicoleta Enache, *Rumania a un ano del inicio de la crisis provocada por el virus COVID-19*, pp. 4 ff.

49 Merle Erikson, *COVID-19 and Labour Law: Estonia*, p. 3.

50 Kurt Pärli, *New Challenges Social Security Covid-19 Switzerland*, pp. 1 ff.

The use of short-time work with compensation paid to employees in Turkey is facilitated by Laws No. 722613 and No. 724414. Short time work is provided for in cases where, due to a general, sectoral or regional economic crisis or force majeure, the weekly working hours are reduced by at least one third, or if there is a permanent or temporary cessation of activity for a minimum period of four weeks. The workers will then be granted a «reduced work allowance» of 60% of the average gross salary of the last twelve months. However, the allowance cannot exceed 150% of the gross minimum wage. The maximum duration, initially three months, is regularly extended to six months by presidential decision.<sup>51</sup> Russia also launched protective measures for workers in the pandemic. They simplified the system of unemployment benefits to secure the income of people made unemployed by the pandemic.<sup>52</sup>

In this period, according to the Iranian social security system, unemployed workers can claim a three-months unemployment benefit related to the Coronavirus. This is intended only to workers who are considered as «employee» and under the scope of Labour Act. Thus, many workers are excluded: i.e. those working in factories employing less than 10 workers, daily-workers, contractors or taxi drivers are not included in this provision.<sup>53</sup> The Korean government paid out emergency disaster relief money totaling 14.3 trillion won to ‘all’ households.<sup>54</sup> To improve working conditions of fixed-term and part-time employees, the Act on ‘Protection of Fixed-term and Part-time Employees’ was enacted in 2006. Regarding the unemployment benefits, the current Korean Employment Insurance Act does not cover a worker whose contractual monthly working hour are less than 60 hours. Concerning this problem, the Korean government currently plans to expand the coverage of employment insurance to all workers (so called ‘universal employment insurance’).<sup>55</sup>

In Japan there was a benefit for sustaining undertakings’ and self-employed workers’ business: This benefit was planned and adopted on the initiative of Ministry of Economy, Trade and Industry. The aim is to establish the safety net for undertakings, in other words, to provide a cash available for all business needs in order to stimulate continuation, resume or resurgence of undertakings

51 Melda Sur, La protection sociale en Turquie face au covid-19, pp. 2 ff.

52 Elena Machulskaya, Covid Russia, pp. 9 f.

53 Elaheh Zabehe, COVID-19 and Labour Law: Iran, p. 2.

54 Bok-gi Kim, The Social Security Response to COVID-19 in Korea, pp. 4.

55 Bok-gi Kim, Email from the 26.04.21, The Social Security Response to COVID-19 in Korea.

damaged by voluntary suspension of their business due to COVID-19 these target persons include not only permanent employees, but also non-permanent employees not insured by employment insurance scheme.<sup>56</sup>

To maintain the basic living of unemployed workers, the government of China has adjusted the current unemployment insurance system, in order to simplify the process and to cover more unemployed workers for a longer period.<sup>57</sup>

On 17 March 2020 a national wage subsidy scheme was established in New Zealand to prevent mass redundancies occurring. Employers that suffered a loss of expected revenue could apply for the subsidy on the condition they continued to retain their staff and pay at least 80% of their wages.<sup>58</sup>

In response to the health emergency, the Canadian government introduced two types of assistance. The first offered a 75% subsidy for up to 12 weeks to businesses whose gross revenues were reduced by 30%. This Canada Emergency Wage Subsidy (CEWS) allows businesses affected by the pandemic to retain or rehire employees. Furthermore, on 25 March 2020, the Canada Emergency Benefit (CEB) was introduced for workers, which provided financial support of up to \$2,000 per month to employees and self-employed persons whose loss of income was caused by Covid-19.<sup>59</sup>

The CARES Act in the USA provided federal funds to support «short-time compensation» programs, where employers avoid layoffs by reducing employee hours, with these employees receiving a prorated state UI. Where states have such programs, federal funds would cover 100% of a state's short-time compensation benefits for up to twenty-six weeks of benefits. Not all states have short-time compensation programs, but they can choose to develop one in order to take advantage of the federal assistance.<sup>60</sup>

Chile and Uruguay do also have measures to support employment and maintain the income of the affected workers and companies. Chile, through

56 Masahiko Iwamura, Replacement incomes introduced due to economic impacts of covid-19 in Japan, pp. 9 ff.

57 Wenwen Ding, COVID-19 and Labour Law: China, pp. 2.

58 Dawn Duncan, The impacts of Covid-19 on Aotearoa/New Zealand's working people: A report 12 months on, pp. 3.

59 Urwana Coiquaud/Jeanne Pérès, Panorama des mesures réglementaires prises en matière sociale et du travail par le gouvernement canadien, pp. 4.

60 Risa L. Lieberwitz, Federal government responses to COVID-19 in the United States, pp. 2.

Law 21,227, provided two tools for maintaining the employment relationship, thus, it enabled access to unemployment benefits in cases of temporary closure of companies by order of the authority; and the extent to which the Unemployment Fund pays the workers' income while the worker's employer pays the social security and health contributions. While Uruguay promoted telework in those activities in which it is possible to provide the service through this modality, indicated that the supply of the necessary elements to carry out this type of work the employer must provide. However there is no law regulating this type of work or providing the employer's obligation to provide work tools, but it is a peaceful criterion that the employer supplies the necessary elements to work.<sup>61</sup> Informing this, through the General Labour Inspectorate, not having to alter the working conditions with the exception of the workplace.<sup>62</sup> In Uruguay, the employer has been empowered to partially suspend the employment relationship, with the consequent payment of unemployment benefit, to ensure that the worker is paid 75% of the usual remuneration.<sup>63</sup> In order to preserve jobs, Uruguay has implemented other special unemployment insurance schemes for specific groups.<sup>64</sup>

Law no. 14.020 of Brazil (2020) even defined a provisional guarantee of employment to the employee receiving the Emergency Benefit for Preservation of Employment and Income, in article 10, as a result of the reduction of the workday and salary or the temporary suspension of the work contract, for the same period of time of the contract suspension or reduction of the workday and salary.<sup>65</sup>

The D.U. 038-2020 from Peru provides for the granting of an economic benefit up to a limit of three months at the expense of the State in favour of workers of micro-enterprises whose employment contracts have been suspended due to the Covid-19 pandemic, provided that they meet the following two requirements: i) they are subject to the legal regime of the Law for the Promotion

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61 Àlvaro Rodríguez Azcùe, Mail from 21.6.2021 regarding «Additions to the Report».

62 José Luis Doderá Cabrera, The perspectives and responses to the Covid Pandemic-19 seen from ILO Santiago Latin America Southern Cone, pp. 18.

63 Àlvaro Rodríguez Azcùe, Mail from 21.6.2021 regarding «Additions to the Report».

64 Àlvaro Rodríguez Azcùe, Mail from 21.6.2021 regarding «Additions to the Report».

65 Luciane Cardoso Barzotto, Alguns aspectos gerais das alterações nos contratos de trabalho no primeiro ano de pandemia no Brasil, pp. 1.

of Productive Development and Business Growth and ii) their gross monthly remuneration does not exceed 2400 soles per month.<sup>66</sup>

As part of the complementary measures in Venezuela within the social, economic and health order on the occasion of the Covid-19 pandemic, in principle, by decreeing in March 2020 the state of emergency alarm in Venezuela and ordering the suspension of labour activities, except for essential ones, the state approved to assume for six months the payment of salaries to private sector employees of small and medium-sized enterprises, as well as workers in the informal economy and private sector would receive «a special bonus» through the Carnet de la Patria, a tool through which benefits are granted to citizens.<sup>67</sup>

The government of Morocco took several measures to cushion the impact of the entrapment and the resulting inactivity for some businesses, particularly in the informal sector, and to allow others to continue operating in this exceptional context. The same applies to the way the consequences are shared between the different stakeholders (state, employers, workers).<sup>68</sup> As well as Tunisia who paid their Employees whose salaries are not maintained, totally or partially, indemnities for the same period (200 Tunisian dinars/month) with maintenance of rights to health care benefits, family allowances and the single salary increase during the period of work stoppage. Government decree No. 2020-317 of 19 May 2020, setting the conditions and procedures for benefiting from the «AMEN SOCIAL» program, grants social assistance to limited-income categories worth 200 dinars with the right of access to care in public health establishments.<sup>69</sup>

In summary, the instrument of short-time work is known primarily in Europe and the USA. In the EU itself, it has existed since 2007, and in the context of the Covid-19 crisis, additional money was made available for financing this support and many countries have simplified in addition the procedure for receiving the money. However, the percentage one receives is can vary from state to state. In Austria and Germany, short-time work benefits have long been used in cases of complete loss of work. In Netherlands, Estonia, United Kingdom, Denmark new benefits had to be created for this case. This showed that even

66 Francisco Villanueva, *Las medidas con incidencia laboral adoptadas por el Gobierno de la República del Perú en el marco de la crisis sanitaria de la pandemia covid-19*, pp.5.

67 Ydangely Tropiano/Atilio Noguera, *Las condiciones y medidas sociales y de seguridad y salud laboral en Venezuela, producto de la pandemia Covid-19*, pp. 6.

68 Khalid Boukaich, *Les conséquences sociales de la crise Covid-19 au Maroc*, pp. 2.

69 Hamza Safi Aicha, *Les mesures publiques sociales à l'épreuve du Covid-19 en Tunisie*, pp. 4.

countries that have a long experience of «flexicurity» respond to the pandemic with similar measures.<sup>70</sup> In New Zealand, it works similarly by employers getting subsidies as long as they continue to pay their employees. Canada and Asia also provide support in the form of financial assistance packages for employees. Many parts of South America and North Africa also introduces measures in providing financial assistance to employees.

## 2. Self-employed person

The Regulation adopted by the Commission of the EU 2020/672 of 19 May on establishing a European temporary support instrument to mitigate the risks of unemployment in an emergency (SURE) following the outbreak of Covid-19 and which establishes a reinsurance mechanism also supports the self-employed persons. Its art. 1 underlines to finance «principally, short-time working schemes or similar measures designed to protect employed and self-employed workers and thereby reduce the incidence of unemployment and income loss».<sup>71</sup>

The support of the Belgian social security system for the self-employed has put the spotlight on a little-known scheme, the «bridging right». This is a kind of modest unemployment insurance that self-employed workers can benefit from when certain circumstances force them to suspend or stop their professional activity.<sup>72</sup>

As to assist self-employed persons in Slovenia, the first anti-corona package introduced a «universal» basic income benefit in the amount of 700 euros net per month for every month of the epidemic (regardless of the amount of one's previous income from self-employment). With the fifth anti-corona package the amount was increased to 1,100 euros net.<sup>73</sup>

In order to limit the number of economic redundancies or cessations of activity, financial support has been provided in France to the self-employed through the creation of a solidarity fund implemented by the State and the regions, which at the end of the year represented 14 billion euros of public expenditure. The stated aim is to prevent small businesses, micro-entrepreneurs,

70 Lorena Ossio, Email from 6.7.21 regarding «Contribution to the report».

71 David Lantaron Barquin, Union Europea, pandemio y relaciones de trabajo, pp. 5.

72 Quentin Detienne/Fabiennn Kéfer, Belgian Social Security Facing the Coronavirus Crisis, pp.1.

73 Luka Mišič/Sara Bagari, COVID-19 related measures in the field of social law adopted in Slovenia, pp. 4.



the self-employed and the liberal professions from going out of business.<sup>74</sup> In June, July and August, the solidarity fund should be adapted (pending a future decree) to support businesses during the reopening stages, while the sanitary constraints (gauge, protocol or curfew) will not be fully lifted.<sup>75</sup>

Individuals who are self-employed but cannot work during the pandemic, because of the quarantine and the nature of their work, may also be entitled to certain benefits in Lithuania. To be entitled for this benefit, the self-employed person (apart from being unable to work because of the conditions of the pandemic) must: 1) be formally registered as being self-employed, 2) if he or she has an employment contract, he/she cannot receive more than the MMW, and 3) if the person has incorporated his or her business as a legal entity, that entity is not bankrupt or insolvent.<sup>76</sup>

Self-employed persons in Denmark with a decline in income of more than 30%, could receive compensation for general expenses (Parliament agreement of 27 March 2020 for companies, Parliament agreement of 18 March 2020 for self-employed and freelancers). Freelancers, as well as persons earn income from employment and freelance work, who used to earn a minimum of 10.000 DKK per month were eligible for salary compensation.<sup>77</sup>

In Spain self-employed persons who suspend their economic activities as a result of the application of RD 463/2020 are entitled to access a benefit for cessation of activity. A similar right is granted to self-employed workers whose turnover has been reduced by 75% compared to the previous six-month period (art. 17.1 RDL 8/2020). FD 2a RDL 13/2020 and art. 13 RDL 30/2020 modify this extraordinary benefit, which remains in force for beneficiaries as of 31 January 2021 until 31 May 2021.<sup>78</sup>

The ACEP in Georgia does not propose financial support for informal workers (whether de-pendent workers and self-employees) who lost their jobs and/or earnings.<sup>79</sup> The package of Netherlands holds measures to safeguard

74 Camille Percher, *Réaction du droit social français à la COVID-19*, pp. 2 f.

75 Sophie Selusi, E-Mail from 18.6.2021 regarding «Addition to the Report».

76 Charles Szymanski/Gertruda Cepulyte, *Labour Law and the Covid-19 pandemic: Lithuanian responses*, pp. 2 f.

77 Natalie Vodebaek Munkholm, *The Covid pandemic in Denmark*, pp. 4.

78 Rafael Gomez Cordillo, *COVID-19. Un año de hiperactividad normativa en materia sociolaboral en España*, pp. 4.

79 Zakaria Shvelidze, *Covid-19 Pandemic and Labour Law Restrictions and Social Impacts in Geor-*

incomes and salaries of self-employed as a temporary support scheme for self-employed professionals called Tozo. In essence, the Tozo entails measures to safeguard the income of self-employed workers.<sup>80</sup>

In Portugal the extraordinary support for the reduction of economic activity was created, aimed at self-employed workers, sole proprietors, managers and members of statutory bodies with management functions, whose activities have been suspended or closed down. This support takes the form of financial aid to workers covered exclusively by the self-employed workers regime, or who are also covered by the salaried workers regime and do not earn, under this regime, more than the value of the IAS16, and are in one of the following situations: a) in a proven situation of total cessation of their activity as a self-employed worker, or of the activity of the respective sector, as a result of the Covid-19 pandemic disease; or b) in a situation of abrupt and accentuated drop of at least 40% in turnover.<sup>81</sup>

The so-called standby pay from Poland should be mentioned in that respect, payable in the event of downtime in the business of self-employed persons or persons with whom civil law contracts have been concluded. The standby pay amounts, as a rule, to 80% of the minimum wage. Moreover, the state may subsidize the remuneration of persons employed under civil law contracts, as well as business deductible expenses of self-employed persons, up to 90% of the minimum wage.<sup>82</sup> There are approximately 1'050'000 self-employed persons in the Czech Republic and the year 2020 was very challenging for them. As their activities were practically stopped during the pandemic, the state adopted several measures in order to make their situation easier. They became eligible for compensation bonus which should have helped with the loss of their income.<sup>83</sup>

The Federal Council of Switzerland, again as example for a «non-EU-country» has also introduced new social security benefits for self-employed persons and for employees who are prevented from working because of official measures

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gia, pp. 3.

80 Beryl ter Haar/Hanneke Bennaars, *The Netherlands and COVID-19 measures in the field of labour law*, pp. 2 ff.

81 Tiago Pimenta Fernandes, *O impacto da COVID-19 nas relações de trabalho em Portugal*, pp. 5.

82 Jakub Stelina, *Anti-Covid labour law regulations in Poland a year after the start of the coronavirus epidemic*, pp. 3 ff.

83 Kristina Koldinska, *Czech social and labour responses to Covid-19*, pp. 2 f.

in connection with the coronavirus. Particularly noteworthy is the setting up of social security benefits for self-employed persons due to loss of earnings.<sup>84</sup>

The subsidies and support benefits in Japan adopted as counter-measures against Covid-19 targets a variety of persons including self-employed workers containing freelancers. Under-takings eligible for this benefit are beside small and middle size undertakings (i) self-employed workers including free-lancers, and (ii) self-employed workers who work by contract for work, business contract or service agreement and who filed their tax returns by declaring that their main earnings were not business income but salary and/or miscellaneous income.<sup>85</sup>

The government of South Korea introduces a special support program for regional employment where local governments support the livelihood of workers including beside those on unpaid leave, also dependent self-employed persons and freelancer. They will receive up to 500'000 won for two months. The government also newly established «Emergency Employment Stability Subsidy» to support small business owners who suffered a drastic drop in sales, non-standard contract employees and freelancers who lost their work. This is particularly meaningful in that some dependent self-employees and freelancers are not eligible for the aforementioned «Special Support Program for Regional Employment», while «Emergency Employment Stability Subsidy» cover these workers, reducing the blind spot of employment insurance.<sup>86</sup>

As of 25 March 2020, the Canada Emergency Benefit was introduced for workers. This taxable benefit provided financial support of up to \$2,000 per month to self-employed persons whose loss of income was caused by Covid-19, for a maximum of 7 months (March - October 2020), whether due to loss self-employment, or due to preventative or curative isolation due to Covid, provided that in the latter two cases the person was not or was no longer eligible for the Employment and Sickness Benefit (a pre-pandemic benefit).<sup>87</sup>

In Chile the government ordered due to Covid-19 suspending provisional monthly income tax payments by companies for three months and refund with-

84 Kurt Pärli, *New Challenges Social Security Covid-19 Switzerland*, pp. 1 ff.

85 Masahiko Iwamura, *Replacement incomes introduced due to economic impacts of covid-19 in Japan*, pp. 9.

86 Ministry of Employment and Labour Republic of Korea, *Responding to Covid-19 – Emergency Employment measures*, S. 11 f.

87 Urwana Coiquaud/Jeanne Pérès, *Panorama des mesures réglementaires prises en matière sociale et du travail par le gouvernement canadien*, pp. 4.

holdings to self-employed persons. On the other hand, the «Benefit for self-employed workers» was created, which includes a subsidy and an interest-free loan to self-employed workers who have issued invoices for at least three months in the last year or for six months in the last two years and who, in addition, in the month they apply for the benefit have experienced a drop of at least 30 per cent in their income compared to the April 2019 - April 2020 period. Uruguay created the Coronavirus Fund to finance extraordinary expenses generated by the pandemic.<sup>88</sup>

Thus, for the self-employed persons, many countries have also enacted measures to protect them against Covid-caused income loss. For example, an EU Commission regulation explicitly intends that self-employed workers should also be considered for the financial support. Some countries got creative and built their own programs to support the self-employed persons. Others supported them with money from the funds made available due to the crisis. Whereas some payments are granted as earnings replacements (e.g. Denmark or Netherland), other aim at covering business costs and thus supporting livelihoods more indirectly (e.g. South Korea) or considering the benefit for cessation of activity, (e.g. Czech Republic, Portugal or Spain). Some groups of the self-employed are covered by existing social protection systems, of course the level of protection for self-employed workers varies considerably from one country to another.<sup>89</sup> The definition of who is considered self-employed and who is not, can vary from country to country as well as the additional conditions, such as income decline over a period of time, that must be met.

## V. REFLECTION AND CONCLUSION

This report shows, that vaccinations and tests related to Covid-19 basically do not have to be covered by the individual. In most cases, either the health insurance companies or the government takes over the costs. The loss of income, during an ordered quarantine or when a parent is prevented from work due to taking care of their quarantined child, is compensated in most countries by a daily allowance from the health insurance, paid vacation or unemployment benefits. This is paid out either directly to the affected person or through the employer. These arrangements have often (but not always) been extended to the

88 ILO, Impact on the labour market and income in Latin America and the Caribbean, Labour Overview in times of Covid-19, September 2020, S. 29 ff.

89 Lorena Ossio, Email from 6.7.21 regarding «Contribution to the report».

self-employed persons, so that they can also benefit under certain conditions. Employees are also given a further support in the form of short-time work or financial assistance packages in the event of a (temporary) suspension of work due to Covid-19. Self-employed persons in some countries also receive financial support in case of a loss of income.

The importance of social security in combating epidemics is already known from other sciences. The social insurances of a country should cover the most important social risks, such as health, age or death. If the requirements for social insurance benefits become tighter, this will have an impact on social assistance benefits, because in most cases the tightening will not create the intended pressure for people to reintegrate into the labour market, but the slide into poverty. Self-employed persons and persons with several jobs are less adequately insured under social security law. In the event of an accident, illness, unemployment or age, many of these people are threatened with poverty and thus the risk of slipping into social welfare. This can be observed in the example of losing their job due to an extraordinary situation, such as the Covid-19 pandemic. In conclusion, a current precarious situation of a certain population will be further aggravated through a crisis like Covid-19. The worse the underlying systems are structured, the more the social security system will have to bear.

Finally, a few remarks on the link between sound social security provision and an effective fight against the spread of the Covid-19 virus are worthwhile. The WHO and all states around the world oblige their citizens to observe hygiene and distance rules and to wear a mask. In the event of Covid-19 infection or contact with people who have tested positive, state quarantine or isolation is ordered. Compliance with all these measures is very important for interrupting chains of infection. There is probably a causal relationship between the level of social protection and compliance with the Covid-19 rules. Employees and self-employed Workers who can be sure that there will be no loss of income and work as a result of complying with the quarantine will comply with these measures. However, if there is a risk of not being entitled to an income during the quarantine or even of losing one's job, the situation is different. Rather, those affected must weigh up whether they can afford the economic consequences of the quarantine. This also has an impact on test readiness, which in turn has a direct impact on the spread of the Corona virus. The thesis «Compliance thanks to social protection» is also based on experiences in dealing with the HIV/AIDS epidemic. Here, too, a conflict(s) between the goals of public health and indi-

vidual human rights becomes apparent, and here, too, good social integration and respect for human rights were (and are) supporting pillars of a successful fight against the epidemic.