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## Answer to second-phase social partner consultation

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### Possible action addressing challenges of access to social protection for people in all forms of employment

1. **What are your views on the possible avenues for EU action set out in section 4 of this document regarding non-standard workers and the self-employed, including**
  - a. **the objectives of coverage, transferability and transparency;**
  - b. **the options of mandatory or voluntary formal coverage;**
  - c. **the appropriate action to ensure effective coverage;**
  - d. **The minimum requirements appropriate to ensure transferability and transparency?**

*Answers to question 1 must be considered in due regard to CESI's answer to question 2.*

**Objectives of coverage, transferability and transparency:** In terms of coverage, CESI favours a proposal by the European Commission for a formal and effective coverage of non-standard forms of work to social protection on the basis of contributions. As proposed, this should be based on a definition of the Court of Justice of the EU (CJEU) according to which “*a worker would be understood as any person who for a certain period of time performs services for and under the direction of any other natural or legal person(s) in return for which he/she received remuneration.*”

CESI stresses that minimum benefit floors and contributions-to-benefit ratios (the ‘value’ of payments into the system) should be as equal as possible to those of employees under standard work contracts.

On transferability, CESI advocates an EU-wide common transferability framework or system which will allow for transitions between jobs or different types of employment or contracts without any losses in rights and entitlements for the worker (contributions and benefits as well as rights and obligations from day one).

According to CESI, work transitions *between Member States* should also be better coordinated. An EU-wide common system of individual ‘entitlements pots’ or ‘entitlement accounts’ for the various aspects of social security could be envisaged. These could follow people in the EU wherever they are economically active throughout their professional career. Regardless of the type of work *and the place of work*, benefits should be fully transferable and traceable. This should apply in particular to the self-employed.

With regards to transparency, CESI agrees with the European Commission on the need for more transparency and administrative simplicity and access to user-friendly information on rights and obligations to social protection irrespective of employment situations. Citizens should at any time have the possibility to get information about the different types of social security entitlements which they have accumulated during a work relationship or their career.

According to CESI, such better transparency should take an EU-wide perspective and should be better coordinated *between the Member States* too. Regardless of the type of work *and the place of work*, access to information should not end at borders.

**Options of mandatory or voluntary formal coverage:** CESI's preference is a mandatory extension of formal access to social protection for those currently not covered. The objective of this initiative is social protection for all forms of employment, so any loopholes need to be closed. In this regard, voluntary schemes are not expedient.

Why and how would voluntary opt-outs from social protection "*cater for and reflect the heterogeneity of the self-employed and of the non-standard forms of employment*" (p.10) as opposed to the heterogeneity that also exists among workers in standard forms of employment which are subject to mandatory formal social protection? What would be the added value of an introduction of a voluntary scheme (as opposed to a mandatory scheme in the first place) if this is followed by awareness-raising campaigns to promote opt-ins (p.10)? How would the extra financial costs of a voluntary scheme with fiscal promotions (p.10) be lower than a mandatory scheme? As these points remain unanswered for CESI, they call the effectiveness and usefulness of voluntary schemes into question.

With the help of fiscal incentives and exemption thresholds for low-income earners coupled with adequate contribution ceilings for high-income earners and an equal sharing of social security costs by employers and employees, the existing solidary-based societal social protection systems could be financed without substantial economic costs.

The existing social protection systems, which have traditionally been based on solidarity, should not be called into question by new parallel opt-out systems which the increasing numbers of people in new and atypical forms of employment could end up in.

**Appropriate action to ensure effective coverage:** CESI agrees with the European Commission that the levels and balance of contributions and entitlement thresholds need to be revisited to include all non-standard workers and self-employed in the social security systems in a sustainable and effective manner. CESI reiterates that:

- minimum benefit floors and contributions-to-benefit ratios (the 'value' of payments into the system) should be as equal as possible to those of employees under standard work contracts.
- social protection systems should have a mandatory formal coverage.

The European Commission should go as far as is possible under the Treaties to achieve this. This entails an understanding of subsidiarity which should not only require Member States' competence or action on the lowest levels, but which should focus on solving problems in an increasingly integrated EU. As long as the single market rules remain the exclusive responsibility of the EU but social policies are primarily the responsibility of the Member States, it will be difficult to achieve a balance between single market freedoms and social-political goals at an EU level. Where the EU can bring an added value, the principle of subsidiarity necessitates Union action.

In terms of social protection, there is a clear added value of EU action. Not only have socio-economic disparities within and among Member States increased significantly during the past years – a phenomenon which was central to the establishment of a European Pillar of Social Rights that includes a right to social security for all. Also, subjecting social security only to national legal orders becomes unsuitable and inappropriate as the borders of labour markets are increasingly blurred, with more and more people working online, providing services for different employers in several Member States at the same time, or moving for work between Member States several times during their professional career. This clearly calls for certain common minimum standards in the field of social protection.

**Add-on – CESI position on relevant EU instruments to close the gaps of access to social protection in the Member States:** CESI advocates regulating minimum requirements for social protection for all at the level of an EU directive. As soft policy instruments, a Council recommendation and the open method for coordination will likely not be effective. The European Semester could be used as a tool to complement efforts and monitor a proper implementation and enforcement of the initiative on social protection for all.

**2. Are the EU social partners willing to enter into negotiations with a view to concluding an agreement under Article 155 TFEU with regard to any of the elements set out in section 4 of this document?**

CESI is always in favour of social partner dialogue under Article 155 TFEU. This also applies to topics related to this consultation. However, if/when social dialogue reaches its limits and no adequate improvements can be achieved for workers, CESI calls on the legislator to act where possible.