

## Notes seminar 9 May 2019

### ***Atypische arbeidsvormen in de werknemersverzekering: hoe zelfstandigen platformarbeid sociaal verzekerd krijgen?***

#### Questions after the following presentation:

*The social security protection of self-employed persons in the European Union.*

By: Dr. Slavina Spasova en dr. Bart Vanhercke, Onderzoekscentrum Sociaal Europa, OSE.

#### Question from the audience:

Question regarding the Hungarian case. Who collects the premiums, and who pays?

#### Answer:

There were 35 reports on the Hungarian case. The Commission wanted “clustering”, no real in-depth information on the various countries. The Hungarian report is published online, it is freely accessible. You can also contact the Hungarian expert for more information, she is usually one to respond soon.

#### Question from the audience:

Where did you find the information, regarding the Netherlands and accidents at work (insurance)?

#### Answer:

This information is in the report (European Social Policy Report). In the information provided to them, they found that if solo-self-employed persons worked under the premises of an employer, this person was obligatory insured for accidents at work. The information seems accepted by the Commission (but could be different).

#### Comment by Koen van Schie, Ministry of Social Affairs and Employment:

I believe that the self-employed can go to court, when accidents at work happen. But I don't think they automatically fall under such an insurance.

#### Question from the audience:

How did you come to the definition of a ‘dependent self-employed person’?

#### Answer:

For the report they took into account various legal definitions. A person is considered as a dependent self-employed person, if he/she works for a minimum of 75% for a single employer. This percentage could be different, depending on the country. The dependent self-employed persons are better protected than (completely) self-employed, but less than employees.

#### Question from the audience::

When you talk about self-employed, does that include all self-employed? Or is there a

certain threshold?

Answer:

There are many exemptions, and this can influence the outcome for who is regarded self-employed. It depends on the legislation. It can differ between social, tax and law regulation (within a country). The definition of self-employment, bogus self-employment and dependent self-employment is country specific.

Comment from Bart Vanhercke:

There were also comments to come up with a harmonised definition of such a term ('dependent self-employed').

**Questions after the following presentation:**

*De arbeidsrelatie vanuit een sociaal exchange perspectief.*

By: Annelien Forrier and Nele De Cuyper, KU Leuven.

Question from Slavina Spasova:

What methodology was used in the research discussed?

Answer:

They did various research. In the future they are going to focus more on the weaker groups in the labour market, for instance Deliveroo. That's why they were included in today's seminar.

Question from the audience::

I am an employer myself. The paradox presented (scheme with various situations of the relationship between an employee and employer) is not 'set in stone' is it? It is about investing, to make sure people have enough reasons to stay. What do you invest in? How do you make a balance between the various interests?

Answer:

The presented paradoxes are not set in stone indeed. They are very dependent on the given complex.

**Reference from Frank Pot:**

Mr. Pot states that he missed the reference to money and power, in the foregoing speeches. The component of power should be taken into account, always, Do not disguise these components.

**Discussion with the attendees of the seminar (14.30-14.45):**

Bart Vanhercke:

Bart states he does not agree with the comments made by Mr. Pot (he stated that academics should turn against the neo-liberal line).

Bart continued, by saying he and his colleagues conducted a comparison between countries, using 35 national reports. He stated that he and his colleagues have also adverted the

Commission to the fact that more and more self-employed workers live in poor conditions (the dependent self-employed so to speak). He wants to change the image of a self-employed person, being a successful lawyer or notary. Entire sectors, such as agriculture, consist of 'self-employed' workers. These facts are more and more emerging nowadays. He states it is up to researchers, to collect the empirical data regarding this topic.

Frank Pot:

For me it was more about the fact that we should not be guided by the neo-liberal train of thought completely.

Bart Vanhercke:

I do not feel that we are guided by the neo-liberal train of thought in our research.

Bart continues to state that the European Commission has not succeeded in getting the Regulation there (it was regarded too invasive). They did come up with the Recommendation. This Recommendation has been weakened (from mandatory coverage, to 'coverage, where appropriate'). This Recommendation still has not been approved. Bart does not want to put too much responsibility with the researchers, he thinks it should mainly be about collecting the factual material.

Frank Pot:

It's not just about collecting factual material; it is also about explaining these facts.

Slavina Spasova:

Explains she and her colleagues are in a service-relationship with the Commission. But they conduct the research autonomous. Their ideas are heard (also social ideas).

Anneleen Forrier:

She states that she agrees with the points mentioned by Frank Pot. She states that she and her colleague have said these same things, but maybe in a more subtle ('Flemish') way. She agrees that the concept of employability is often touched upon from a neo-liberal perspective (also from America). She tries to go towards another direction, also stating that employability is not just the responsibility of the employee alone. With regards to money and power, she states that indeed dependency (between employees and employers) is strongly related to power. Power was also taken up in the schemes they presented.

Romke van der Veen:

He would like to state, that Frank Pot was more appointing a general way of thinking that he has noticed (and not strong criticism to any of the speakers).

**Additional questions from the room:**

Koen van Schie, Ministry of Social Affairs and Employment:

He states that he still doesn't get why Europe would want to make sure that self-employed people should have access to unemployment benefits. Koen feels that these people should be able to control their own (in)capacity for work, or otherwise would be regarded as employees.

Answer (by Bart Vanhercke)

There are different opinions regarding this topic. Right now, people are Euro-sceptic. This is mainly due to the fact that the European Union has focussed on the economy and the crisis for a long time, overlooking social affairs for the bigger part. Bart thinks it's a pity that the Regulation did not come. He also feels bad that the Recommendation is weakened, mainly for the self-employed persons. He would have hoped that these persons gained more rights.

Question from prof. Schoukens (unemployment benefits):

How can you regulate unemployment for self-employed persons? How could the Eu do that? How do you organise the involuntary aspect of the unemployment benefits? There is so much variety. What specific things would be done to regulated unemployment benefits for self-employed persons?

Question from Alberto Barrio (unemployment benefits):

How do certain countries adapt their unemployment benefits, if there are already benefits specific for self-employed (for instance in Spain)?

Answer (by Bart Vanhercke):

In practice we have noticed that more and more self-employed people do not choose to be self-employed. This becomes clear after research in Eurofound amongst others. If these people become unemployment, this is also usually not their own choice. That is part of the ratio for applying unemployment benefits to self-employed persons.

Answer (from Slavina Spasova):

She states that she didn't go into all the 'ins and outs' of the national systems, as there were many systems and it's up to the national systems to implement the schemes of unemployment ultimately.

She didn't study the rationale behind implementing the unemployment benefit. It's also political. Depends on the country. Finland: changes in unemployment benefit scheme, have to do with the fact that the economic crisis led to an increase of self-employed people.

The Commission becomes more and more aware of what happened before. They have pushed self-employment amongst others. But they are now realizing that there are also involuntary self-employed people, who are not insured > which is not fair.

Question from the audience:

She points out that she missed information on the distinction between self-employment and bogus self-employment. She feels the problem of bogus self-employment deserves priority. She also questions whether there should be a system set up, for all working people?

Question from the audience:

Employability is about employing and developing persons. Regarding (in)capacity for work, the employer also has a big responsibility. How can they use this for self-employed persons?

Answer (from KU Leuven):

Employability, is a responsibility of the State as well.

Employability can have an individual perspective, but there is also a role for the State to activate people. It's often about 'upscaling' then. People should do things to get more (work)experience. The role of the state has to be enough, to prevent imperfections from the 'market' itself. It has to take away thresholds, prevent employers from not wanting to invest in certain large groups of people.

Frank Pot, final say:

There are certain 'market failures', we can conclude. Either the government, or the social dialogue, must step in. It is up to academics to collect and analyse the data collected.

**Questions after the following presentation:**

*National approaches to platform work.*

By: Alberto Barrio

Question from the audience:

I believe that we sometimes leave out the 'black market', only comparing the traditional employment relationship to the new relations from the platform economy. But the black market was very big in some sectors. For instance, in the cleaning industry. He missed this point of view in the discussion.

Answer (by Alberto Barrio):

This is true, platform work can put situations in the open, that used to be 'hidden'. The regulatory model that we had in mind was based on the traditional employment relationship.

There were marginal rules. Now, it seems that the regulator is allowing the marginal way of working as suitable, as part of the system. While there is no protection for these workers. Platforms is technology, they allow almost everybody to be a self-employed person. But the question is whether they should be?

**Questions after the following presentation:**

*De sociale zekerheid van de zelfstandige/platformwerkers in Nederland en in Europa*

By: Saskia Montebovi

Question from Bart Vanhercke:

Do you feel that the debate regarding social security and self-employed persons, was heavily influenced by the European Social Pillar?

Answer (from Saskia Montebovi):

No, not really. It is more reflected in literature/the discussion in general. The topic is part of the social policy.

Question from the audience:

Does platform work influences regular work?

Answer (from Saskia Montebovi):

It seems that platform work is stimulating, that more work has emerged. It does not work destructive so to speak. It seems that there are extra people on the labour market.

Points from Koen van Schie (from Ministry of Social Affairs and Employment):

They wrote a nice letter in response to the SEO-report regarding platform work (June 2018). That's on how the government feels about the discussion regarding platform work.

Koen states that the self-employed persons, have a much lower tax burden than employees. And that self-employed persons have access to social assistance (special arrangement). This is a kind of 'social security' for the self-employed.

By saying this, Koen wants to add some 'nuance' in the debate.

Regarding the 'arbeidsvorm neutrale bescherming', he states that information regarding this topic has not been very specific. The downsides of this approach are not yet clear. The Commissie Borstlap is researching the matter more extensively.

Additional points from Koen:

- Platforms are a 'hype'.
- The discussion regarding the platform economy, is not.
- He doubts whether platforms will really change the traditional businesses. He states that there will always be organizations, in need for more traditional employment relations. He also states that the increase of platform work seems to have been lowered (in the USA).
- There are more and more exceptions to the traditional 'employee' definition, this is not good for 'clarity'.
- The core of the debate is the uneven playing field in costs and revenue, which ensures that growth of self-employed and flex in the Netherlands.

**The discussion with the attendees (16.20-17.00)**

Comment from professor Schoukens:

Regarding the European Social Charter, professor Schoukens states that it was not very enforceable.

Secondly, he states that he agrees with most of the points mentioned by Koen.

He also believes platforms might be somewhat of a 'hype'. He does believe that the development is an 'invitation' to look at certain problems/points again.

Some parts in the discussion cause to a lot of problems, these mainly have to do with work (in)capacity and unemployment. You cannot use the normal Werkloosheidsuitkering on self-employed persons.

Financing the system could lead to a problem (in the Netherlands). The Belastingdienst might not be interested in attracting more employees, to make sure self-employed people pay certain contributions.

Partial work incapacity would be particularly tricky, as you would have to monitor people's incomes.

It is very interesting to look at other countries and how they deal with these problems.

Points from Saskia Montebovi:

Some self-employed people use the 'Broodfonds' to deal with the lack of protection. 'Arbeidsvorm neutrale' thinking could also be done by coming up with certain varieties for self-employed workers. For instance, stating that self-employed persons only receive a benefit, after 4 weeks of being sick (while employees receive this after 2 days for instance).

Points from Koen van Schie:

But the government makes perfectly clear that being self-employed leads to responsibilities. It is a self-employed own's responsibility to deal with work incapacity.

Points from Saskia Montebovi:

But, ZZP'ers are not always perfectly informed. They might not know in advance that they have to do acquisition and taxes etc. Additionally, the UWV has 'pushed' people into becoming a ZZP'er.

Points from Alberto Barrio:

Regarding the European Social Charter question from the audience (somebody stated that the ESH already mentioned that all workers have a right of social security) > We have to think about the question if anybody can be and should be a self-employed person?

Question from the audience:

Does the problem not lie in the fact that ZZP'ers can receive social assistance (special arrangement)? Shouldn't you plea a compulsory incapacity insurance?

Points from Koen van Schie:

It used to be the idea (in the Ministry) that self-employment would be good for the Netherlands. It would lead to innovation and participation. From research, it became clear that this is not entirely true. You don't see a lot of growth amongst self-employed workers, some of them have marginal incomes. Right now, there are a lot of self-employed persons in the Netherlands. All kind of circumstances have resulted towards this. A lot of the self-employed persons state they do not want to be insured. Koen therefore feels that you should look at the problem from a broad perspective (not just social security alone).

Question from the audience:

This person also states that the 'zelfstandigenaftrek' is a big part of the problem. He feels the fiscal arrangement and social security problems, are linked to one other.

Points from Koen van Schie:

If you were to abolish the 'zelfstandigenaftrek' you would have to execute this over the course of a long period of time.

Question from the audience:

This person states that a lot of companies use the self-employed person to deliver packages, against very low costs. This is only possible because these workers are cheaper. It would save up to 10.000 Euros a year. The self-employed persons thus does not contribute to the

system (by paying taxes). He thinks the solution should be abolishing the 'zelfstandigenaftrek'. He states that the costs for consumers would go up a little.

Concluding word by Romke Van der Veen:

The matter discussed is very complex. The cause and approach have everything to do with social security. But the problem itself, also has to do with labour law and taxes. A much heard solution is the 'arbeidsvom neutrale sociale zekerheid'. It has been named and is regarded as interesting. But for now additional research and debate has to take place.