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# **Adjusting Social Security Law to Societal Changes in Slovenia**

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## LIST OF ABBREVIATIONS

CJEU	Court of Justice of the EU
DZ	Family Code
ESS	Employment Service of Slovenia
EU	European Union
HIIS	Health Insurance Institute of Slovenia
IMAD	Institute of Macroeconomic Analysis and Development
MoveS	Free Movements of Workers and Social Security Coordination
MPISOC	Max Planck Institute for Social Law and Social Policy
PIIS	Pension and Invalidation Insurance Institute of Slovenia
PP	Pravna Praksa
RS	Republic of Slovenia
SRE	Statistical Registry of the Economically Active Population
SURS	Statistical Office of the Republic of Slovenia
TFEU	Treaty on the Functioning of the European Union
UBI	Universal Basic Income
WHO	World Health Organization
ZIUZEOP	Act on Determining the Intervention Measures to Contain the COVID-19 Epidemic
ZPIZ-2	Pension Insurance Act
ZSDP	Parental Protection and Family Benefits Act
ZUTD	Labour Market Regulation Act
ZZDej	Health Services Act
ZZVZZ	Health Care and Health Insurance Act

## 1. INTRODUCTION

The initial (basic) report on developments, features and prospects of the Slovenian social security law was prepared for the Max Planck Institute for Social Law and Social Policy in March 2012. At the same time, a comparative article on German and Slovenian social security law was published.<sup>1</sup> In both texts, fundamental features of the Slovenian social security law are explained in greater detail. In the following years, annual updates informed about significant developments in Slovenian social security law.<sup>2</sup>

The present report covers the changes in Slovenian social security law in 2019 and the reasons behind them. Some developments in the first half of 2020 are included as well, pointing to several so-called mini reforms or adjustments of social security law as a result of societal developments, inspired either by Constitutional Court decisions or by policy preferences of the legislature. In addition, several measures enacted in the period between March and May 2020 due to the outbreak of the new coronavirus (SARS-CoV-2 or COVID-19) are also briefly mentioned in the present report.

## 2. POLITICAL, ECONOMIC AND SOCIAL SITUATION

### 2.1. Political Developments

Prime Minister Marjan Šarec, elected in August 2018, resigned on 27 January 2020, less than two years after assumption of office, following the resignation of the Minister of Finance, who resigned because of controversies among the coalition parties as to the proposed changes to the health-related legislation (concerning the abolition of supplementary health insurance and the strengthening of mandatory health insurance). Under Prime Minister Marjan Šarec, a minority government had been formed, composed of The List of Marjan Šarec (LMŠ), the Social Democrats (SD), the Party of Modern Centre (SMC), the Pensioners' Party (DeSUS) and the Party of Alenka Bratušek (SAB). In order to reach parliamentary majority, the government was supported in certain projects by the Left (Levica).

After the resignation of the Prime Minister, the entire government collapsed. The question was raised whether a new Prime Minister could be elected by the Parliament or whether the Parliament had better be dismissed followed by new general elections. As nothing is ever certain in politics, some parties, severe opponents at first, were able to come to an agreement in forming a new government. Some Members of Parliament even switched to a different political party. Conversely, other political parties (also the one leading the government, i.e.

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<sup>1</sup> Strban, Grega, *Systematisierung des slowenischen Rechts der sozialen Sicherheit im Vergleich zur Systematisierung des deutschen Sozialrechts*, Zeitschrift für ausländisches und internationales Arbeits- und Sozialrecht (ZIAS), vol. 24/25, 2010/2011, No. 4, pp. 353-376.

<sup>2</sup> Social Law Reports (SLR) 5/2015; 5/2016; 5/2017; 4/2018.

Slovenian Democratic Party, SDS) obliged their Members of Parliament to reimburse the proportionate costs of elections in case of their leaving the party.<sup>3</sup> The new government was elected on Friday, 13 March 2020. The political majority swung from more politically left- to more politically right-wing. Due to this rather unexpected turn, the presidents of SMC and DeSUS stepped down and their posts were subject to new elections. The parties forming the present government are SDS, SMC, DeSUS and new Slovenia (NSi).

What has been somewhat astonishing is that the new government replaced persons in leading positions of several public institutions, such as the police, the National Bureau of Investigation, the Slovenian Army, and even the Statistical Office of the Republic of Slovenia.<sup>4</sup> Moreover, the new government publicly expressed its dissatisfaction on the economic predictions of the Institute of Macroeconomic Analysis and Development (IMAD)<sup>5</sup>, which displays an unprecedented governmental and therefore political intrusion to expert offices.

## 2.2. Economic Situation

At the end of 2019, moderate economic activity in Slovenia continued while confidence started to rise in almost all sectors, particularly in manufacturing. Enterprises in this sector had higher expectations for production volume and orders due to improvements in the global economy. On the labour market, unemployment continued to decline at a moderate pace. At the same time, higher household income following a growth in wages, social security and employment had a favourable impact on private consumption.<sup>6</sup>

However, in March 2020, the consequences of the coronavirus pandemic and the measures taken to contain its spread already had a significant negative impact on the activity of both the Eurozone and the Slovenian economy.<sup>7</sup> From mid-March onwards, a general lockdown was ordered and for a certain period of time movement was restricted to the communities of permanent or registered residence in Slovenia. All public transport was stopped. Also all non-essential service activities were banned. Some enterprises decided to shut down production. In April, confidence continued to deteriorate strongly in all sectors. Consumer confidence also fell to a 15-year low.<sup>8</sup>

In the first quarter of 2020, the gross domestic product (GDP) decreased by 2.3% compared to the first quarter of 2019. Seasonally adjusted GDP decreased by 3.4% compared to the first

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<sup>3</sup> In January 2020, the amount was € 5,161, plus any procedural costs (<https://www.24ur.com/novice/svet/koliko-stane-izstop-iz-stranke-sds.html>, March 2020).

<sup>4</sup> See <https://www.24ur.com/novice/slovenija/prvic-v-zgodovini-predcasno-razresili-direktorja-drzavnega-statisticnega-urada.html>. The Statistical Council is asking for the decision of the Constitutional Court on such action, <https://www.24ur.com/novice/slovenija/statisticni-svet-zeli-ustavno-presoj-razresitve-direktorja-sursa.html>, June 2020.

<sup>5</sup> See <https://www.delo.si/novice/slovenija/vladi-ni-vsec-napoved-brezposelnosti-314807.html>, June 2020.

<sup>6</sup> IMAD, Slovenian Economic Mirror No 2/2020.

<sup>7</sup> IMAD, Slovenian Economic Mirror No 3/2020.

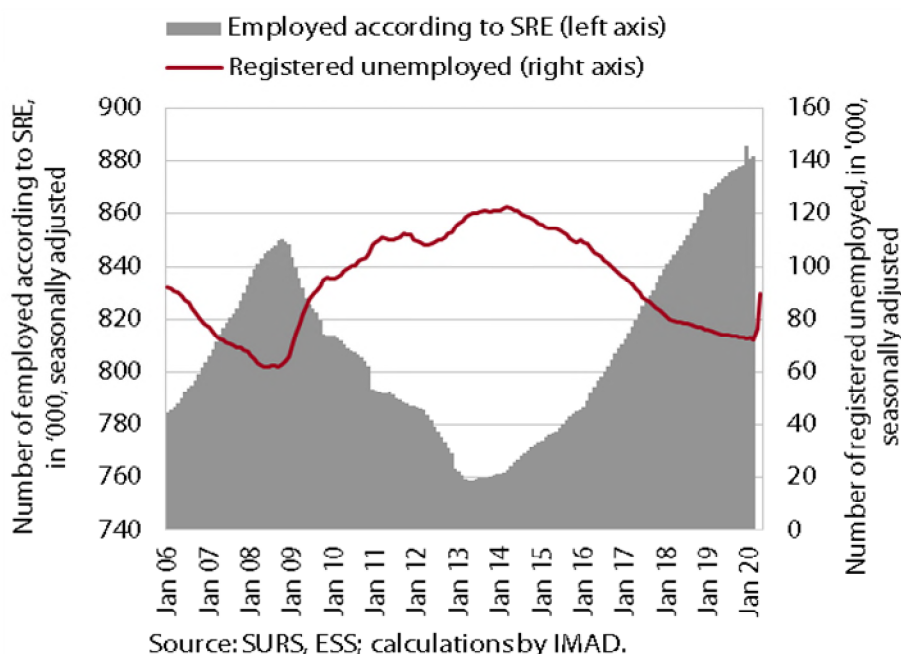
<sup>8</sup> IMAD, Slovenian Economic Mirror No 3/2020.

quarter of 2019 and by 4.5% compared to the fourth quarter of 2019.<sup>9</sup> Decrease is expected also in the second quarter of 2020.

The COVID-19 pandemic, in combination with strict health protection and virus containment measures, represents a significant negative shock for the economic activity in Slovenia, other European countries and globally. To alleviate the negative consequences for businesses and households, the government adopted a range of measures. As the spread of the coronavirus and the time needed for its containment are unknown, high uncertainty remains. There is a risk that the period of severely paralysed economic activity will last longer than assumed and that the decline in GDP will become larger and more permanent. The beginning of the economic recovery will crucially depend on the speed of the introduction of economic policy measures and their scope and content at home and abroad. IMAD assesses the situation and the measures for alleviating the economic impact of the coronavirus pandemic in Slovenia and with regard to its main trading partners.<sup>10</sup>

### 2.3. Social Situation

Labour market conditions also began to deteriorate in the middle of March 2020, with the number of unemployed persons starting to increase more noticeably. In the second half of April and at the beginning of May, the increase slowed down slightly. In total, 88,648 persons were unemployed at the end of April, one fifth more than one year earlier. By mid-June, the number amounted to 89,787.<sup>11</sup>



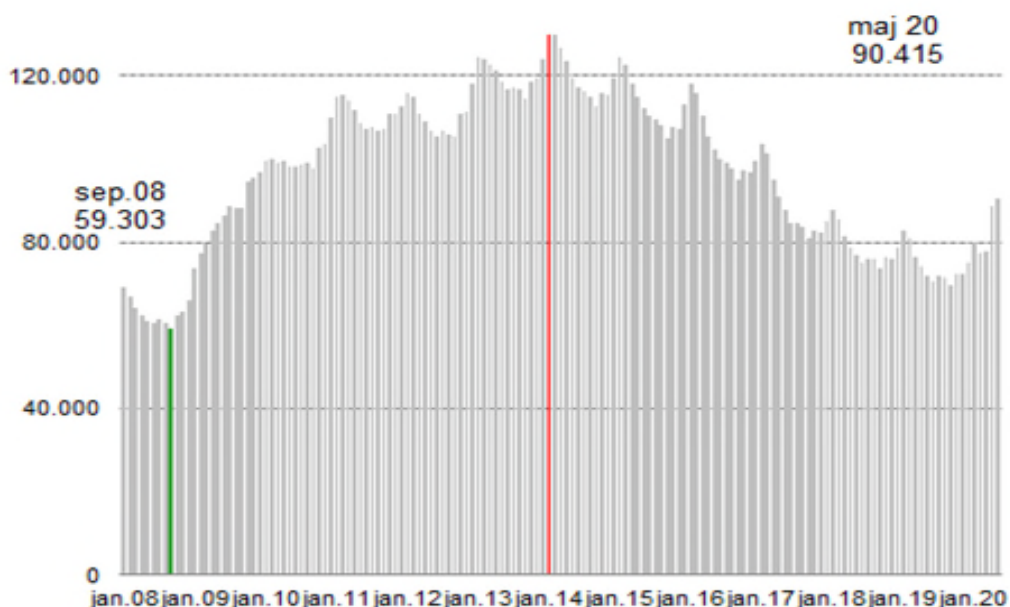
<sup>9</sup> Statistical Office RS, <https://www.stat.si/StatWeb/en/News/Index/8865>, June 2020.

<sup>10</sup> IMAD, COVID-19 Scenario, 2020.

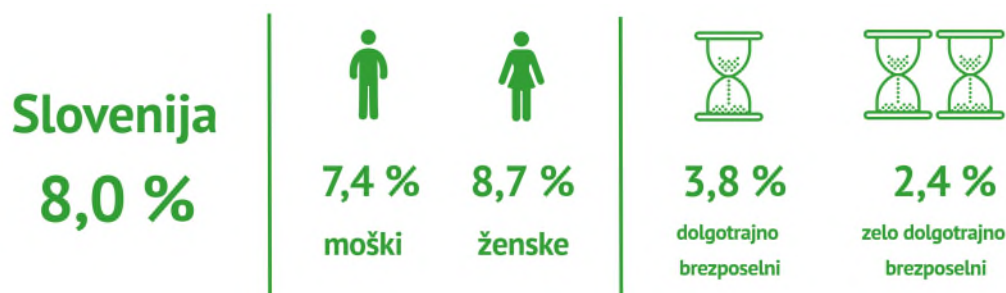
<sup>11</sup> Employment Service of Slovenia, [www.ess.gov.si](http://www.ess.gov.si), June 2020.

Since 2015, unemployment had gradually decreased until early 2020, when unprecedented measures for containing the new coronavirus were enacted.<sup>12</sup>

The overall unemployment rate from the last economic crisis of 2008 until early 2020 can be seen in the graph below.



In March 2020, the registered unemployment rate increased to 8% (7.4% among men and 8.7% among women, whereby 3.8% were long-term unemployed and 2.4% were very long-term unemployed).<sup>13</sup> In May 2020, registered unemployment peaked with over 90,000 registered unemployed persons.<sup>14</sup>



<sup>12</sup> IMAD, Slovenian Economic Mirror No 3/2020.

<sup>13</sup> ESS, [https://www.ess.gov.si/trg\\_dela/trg\\_dela\\_v\\_stevilkah/stopnja\\_registrirane\\_brezposelnosti](https://www.ess.gov.si/trg_dela/trg_dela_v_stevilkah/stopnja_registrirane_brezposelnosti), June 2020.

<sup>14</sup> ESS, [https://www.ess.gov.si/trg\\_dela/trg\\_dela\\_v\\_stevilkah](https://www.ess.gov.si/trg_dela/trg_dela_v_stevilkah), June 2020.



At the same time, online services and post deliveries increased and many employees who could work remotely, i.e. from home or at other places outside their regular workplace, have made use of this opportunity. In public administration as well as in universities, remote services and reverse or flipped<sup>15</sup> and digital classrooms with blended learning<sup>16</sup> have been very much promoted during the pandemic, as it was categorised by the WHO<sup>17</sup> while declared to be an epidemic by the Slovenian government.<sup>18</sup>

Although the state of emergency declared due to the pandemic in Slovenia was officially revoked on 15 May 2020, with legal effect on 31 May 2020,<sup>19</sup> some practices like distant examination or digital services have remained to a certain extent. However, due to the very favourable epidemiologic picture of Slovenia,<sup>20</sup> many services and activities of social life have been resurrected (still with certain precautionary measures).

Nevertheless, strong social movements are expressing dissatisfaction with governmental appointments, alleged irregularities when purchasing protective equipment, as well as with governmental ordinances and decrees. Since groups of more than five persons (from the same household) were forbidden, peaceful protests were organised on bicycles at the end of April. They still take place every Friday.<sup>21</sup>

### 3. EVOLUTION OF THE MAIN BRANCHES OF SOCIAL SECURITY

Some modifications of social insurance schemes were carried out in 2019 and early 2020. They range from adjustments made to pension and invalidity insurance, mandatory health insurance and unemployment insurance. Moreover, the introduction of a basic income (not necessarily universal) has been discussed again. Family benefits and social assistance schemes were under legislative scrutiny as well. Some novelties are of a more systemic nature and

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<sup>15</sup> On flipped classrooms e.g. <https://facultyinnovate.utexas.edu/flipped-classroom>, June 2020.

<sup>16</sup> On blended learning in social security law <https://www.eiss.be/training%20and%20education/blended%20courses.html>, June 2020.

<sup>17</sup> The WHO Director General officially declared the spread of COVID-19 as a pandemic on 11 March 2020, <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>, June 2020.

<sup>18</sup> Decree on the declaration of the contagious disease SARS-CoV-2 (COVID-19) on the territory of the Republic of Slovenia [Odredba o razglasitvi epidemije nalezljive bolezni SARS-CoV-2 (COVID-19) na območju Republike Slovenije], Official Gazette RS, No. 19/20 and 68/20, was passed on 12 March 2020 and entered into force the same day.

<sup>19</sup> Ordinance on the revocation of the emergency state of epidemic caused by the contagious disease SARS-CoV-2 (COVID-19) [Odlok o preklicu epidemije nalezljive bolezni SARS-CoV-2 (COVID-19)], Official Gazette RS, No. 68/2020.

<sup>20</sup> Compare at <https://covid19.who.int/>, June 2020.

<sup>21</sup> First protests <https://www.rtv slo.si/slovenija/protestniki-s-kolesi-skozi-sredisce-ljubljane-in-pred-parlament/521827> and more recent ones <https://www.delo.si/novice/slovenija/ponovno-protest-na-kolesih-317075.html>, both June 2020.

some are more of a short-term nature due to the epidemic in Slovenia (and pandemic in Europe and the world).

### 3.1. Pension and Invalidity Insurance

In terms of pension and invalidity insurance, modifications made to social security relate mainly to the simultaneous receipt of a salary and a pension, the equal treatment of women and men and certain *ad hoc* measures for cushioning the impact of the corona crisis on some pensioners.

#### 3.1.1. Admissibility of a 'Double Status'

The retirement age in Slovenia is rather low compared to some other EU Member States.<sup>22</sup> Retirement is possible at the age of 60 (which can be brought forward due to childcare periods, military service or employment before maturity) in case an insurance period of at least 40 years is fulfilled. Otherwise the age of retirement is set at 65 years with an insurance period of at least 15 years.<sup>23</sup>

In Slovenia, as elsewhere, the concept of old age as a social risk is no longer linked only to the idea that old age in the life cycle goes along with a loss in earnings capacities (as in the case of invalidity, sickness or unemployment). Lawmakers determine the pensionable age on the basis of a generally agreed consensus that people who reach this age no longer have to be economically active. Reaching the pensionable age therefore allows insured persons to retire and draw an old-age pension (in some cases, individuals are even obliged to retire),<sup>24</sup> even though many people are still capable and willing to work when they reach the statutory retirement age (and meet the retirement conditions in general).<sup>25</sup>

The essential question then is whether people who reach the retirement conditions (including statutory pension age) and continue to be economically active without suffering a loss in their earnings capacity should receive a (full) old-age pension at the same time. The issue of the so-called 'double status' of a person, i.e. being a worker or a self-employed person and a

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<sup>22</sup> More at [www.missoc.org](http://www.missoc.org), June 2020.

<sup>23</sup> Article 27 of the Pension and Invalidity Insurance Act [*Zakon o pokojninskem in invalidskem zavarovanju*, ZPIZ-2], Official Gazette RS, No. 96/2012, last amendment No. 75/2019.

<sup>24</sup> The CJEU gives rather broad discretion to the Member States in regulating the labour markets. See e.g. decision on mandatory retirement of university professors in case C-250/09 *Georgiev*, EU:C:2010:699.

<sup>25</sup> For instance, when old-age insurance was first introduced, old age as a social risk was based on the presumption of invalidity. In the German old-age insurance scheme of 1889, the retirement age was set at 70 years, while the average life expectancy was 58 years (and the average time of drawing a pension did not exceed two years). Igl, Gerhard, *Grundsatzfragen der Alterssicherung – Sinn und Ausprägung der Rentenversicherung*, in: Becker, Ulrich (ed.), *Alterssicherung in Deutschland*, Baden-Baden 2007, p. 43. Dawson W. H., *Social Insurance in Germany 1883-1911, Its History, Operation, Results, And a Comparison with the National Insurance Act, 1911*, New York: Charles Scribner's Sons, London: T. Fisher Unwin, 1912, p. 138.

pensioner, was high on the political agenda in Slovenia in 2019.<sup>26</sup> At that time, insured persons who continued to engage in full-time (self-)employment after meeting the retirement conditions could draw 20% of their old-age pension along with their full wage or salary. The controversial issue was whether they should receive a full pension together with their full salary. In many EU Member States, pensioners (up to a certain income or above a certain age) are allowed to combine income from work with pension income.<sup>27</sup> The underlying conflict is not whether pensioners can engage in gainful employment, but rather whether the reception of the pension payment should be excluded or restricted for persons still working full-time.

Providing a pension at a certain age regardless of whether income is lost (reduced) or not is a characteristic of private insurances, a so-called endowment policy.<sup>28</sup> In terms of social security, the receipt of a certain pension amount along with a full salary after reaching a certain age might be perceived rather as an active employment incentive and not as a 'pension' as such, as pensions should, by definition, remain associated with a certain social risk, i.e. reduction or loss of income due to old-age. Active employment measures should be provided out of the general budget (supported by the European Social Fund). If they are provided as a pension out of the pension insurance scheme, they represent a burden that is uncommon to such schemes.<sup>29</sup>

Moreover, even if such a benefit were to be considered as a pension by its legal nature, the core principle of solidarity could be questioned. Pensions are financed by the younger, active population in a pay-as-you-go system. However, in the case of full-time workers receiving a part of a 'pension', this means persons who are in no need of a pension since there is no loss or reduction of present income. Younger insured persons with low salaries would thus be paying contributions in order to finance pensions for persons with higher salaries and without a loss of income.

In no other social security scheme, benefits are provided without an imminent threat of (e.g. in the case of preventive healthcare) or materialisation of a social risk. For instance, an insured person does not receive a basket of pharmaceuticals in a state of good health, unemployment benefits without being (partially or fully) unemployed, or maternity/paternity benefits without having a child, on grounds of mere gratitude for having contributed to a scheme.

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<sup>26</sup> Being partially economically active and receiving a partial old-age pension is not challenged in such discussions. Strban, Grega; Bagari, Sara, *Dvojni status delavca in upokojenca v sistemu socialne varnosti*, PP, 38, 2019, 28-29, p. II.

<sup>27</sup> More at [www.missoc.org](http://www.missoc.org), June 2020.

<sup>28</sup> An endowment policy is a specialised life insurance contract designed to pay to the insuree a lump sum (assured sum, face amount) after a specific term (on its 'maturity', e.g. after 10 or 20 years) if the insuree is still alive at the end of the policy's term, or else to their survivor(s) upon the insuree's death, whichever occurs first. More at <https://thelawdictionary.org>, June 2020.

<sup>29</sup> The Slovenian Constitutional Court has already argued that the prevention of overburdening active insured persons by introducing new benefits is reasonable (U-I-6/03, SI:USRS:2005:U.I.6.03).

At the same time, receiving an old-age pension only if the income is reduced or lost does not breach the fundamental social right to work<sup>30</sup> in any way. Elderly workers and self-employed persons are free to continue working for as long as they want and are able to. However, there is no need for income replacement if income is not reduced and, thus, no need for an old-age pension that has the legal function of an income replacement benefit. Any other interpretation, i.e. providing benefits as a mere investment return, might oppose the idea of another fundamental human right, i.e. the right to social security. The latter is based on solidarity and should provide security in case of income loss (or considerable reduction) or the occurrence of increased costs in the lives of people.

The legislature followed this line of reasoning, however, only to a certain extent. No full pension is paid when a person reaches the retirement conditions and continues to work. Nevertheless, 40% of the calculated pension (theoretical amount)<sup>31</sup> is paid for the first three years after reaching retirement conditions if the insured person remains in full-time employment or self-employment, and 20% of it thereafter (until reducing working time as a worker or insurance time as a self-employed person, or until full retirement).<sup>32</sup>

### 3.1.2. Equal Treatment of Women and Men

There has been a rather lengthy discussion (at least since 2013)<sup>33</sup> on whether the Slovenian pension and invalidity insurance scheme is completely in line with the EU law on equal treatment of men and women in social security.<sup>34</sup>

A rather simple formula is used for the calculation of a pension. For the first 15 years of insurance, the legislature determines a certain pension percentage. For every additional year a certain percentage is added. The starting percentage for men used to be 26% and for women 29% of the pension calculation base. For every additional year, the amount was increased by 1.25 percentage points. Hence, men with a 40-year pension insurance period received a pension of 57.25% and women 60.25% of the calculation base.

The CJEU argued that if national legislation has maintained a different retirement age for male and female workers, the Member State concerned is entitled to calculate the amount of pensions differently depending on the worker's sex.<sup>35</sup> However, the Slovenian legislator had generally established equal retirement ages for men and women as of 2013 while maintaining distinctive calculation rules. The CJEU argued in another case<sup>36</sup> that, if the distinction between

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<sup>30</sup> Article 1 (The Right to Work) European Social Charter or Article 49 (Freedom of Work) Slovenian Constitution. Bohinc, Rado, *Prepoved dela upokojencev - protiustavna in družbeno škodljiva*, PP, 38, 2019, 30-31, p. 6.

<sup>31</sup> Compare with Article 52 of Regulation (EC) 883/2004.

<sup>32</sup> Article 39.a ZPIZ-2.

<sup>33</sup> Strban, Grega: *Spregledani vidiki pokojninske reforme*, Delavci in delodajalci, 2013/2-3, 286.

<sup>34</sup> Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security, OJ L 6, 10.1.1979.

<sup>35</sup> Case C-377/96 *De Vriendt and Others*, EU:C:1998:183.

<sup>36</sup> Case C-154/92 *Van Cant*, EU:C:1993:282.

the retirement age of women and men is abolished, there is no justification for a distinctive calculation of pensions according to Directive 79/7/EEC of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security<sup>37</sup>. Member States could only temporarily retain benefits for women in order to adjust the pension systems without threatening their financial balance. Notwithstanding the Directive, the Slovenian pension legislation of 2012 (ZPIZ-2) maintained distinctive calculation rules not as a mere temporary measure, but rather as a reminiscence of the previous legal regime (of ZPIZ-1), which also applied gender-specific retirement conditions. Under these specific conditions, the Slovenian Constitutional Court had ruled that the lower retirement age as well as the more beneficial pension calculations related to it was a positive action measure in favour of women, thus compensating for disadvantages suffered by women as compared to men taken as a reference group.<sup>38</sup>

Although the 2012 reform law aligned the statutory retirement age, the calculation of the pension levels for women and men remained different. This raises the more general question as to whether distinguishing between women and men in pension insurance is still required in order to achieve material (substantive) gender equality. An argument in favour of equal pension calculation rules for women and men would be that pension insurance legislation can hardly be used to make up for discriminations previously experienced on the labour market. More should be done for gender equality before retirement, i.e. during the professional career of women and men. Equal pay for equal work or for work of equal value<sup>39</sup> should be guaranteed. Moreover, a professional pension should be provided not only for (what used to be) typically male professions (like police officers, soldiers, pilots, bus drivers), but also for other types of work, which can hardly be performed at a higher age (e.g. long-term care) or for the long-term impact of certain activities (e.g. care work).

The amendment to the pension and invalidity insurance<sup>40</sup> implemented at the beginning of 2020 not only aligned the general pensionable age, but also the percentages for calculating the pension amounts for women and men. They amount to 29.5% for 15 years of insurance; for each additional year another 1.36% is added. After a five year transitional period, i.e. from 2025 onwards, women and men will receive 63.5% of the calculation base for a pension insurance period of 40 years.<sup>41</sup>

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<sup>37</sup> Different pensionable ages are a direct exception according to Article 7 of the Directive 79/7/EEC, whereas different calculation of a pension is not.

<sup>38</sup> Decision of the Slovenian Constitutional Court, before Slovenia joined the EU, U-I-298/96, OdlUS VIII, 246. More Strban, Grega, *Gender Differences in Social Protection*, MISSOC Analysis 2012/2 Brussels, 2012, [https://www.missoc.org/documents/archive/analysis/2012\\_analysis-2\\_EN.pdf](https://www.missoc.org/documents/archive/analysis/2012_analysis-2_EN.pdf), June 2020).

<sup>39</sup> Article 157 of the Treaty on the Functioning of the EU (TFEU), OJ C 202, 7.6.2016 (consolidated version).

<sup>40</sup> ZPIZ-2G, Official Gazette RS, No. 75/2019.

<sup>41</sup> New Article 37 ZPIZ-2.

However, the recalculation of pension periods to a full-time equivalent remains. This rule not only hampers protection in the case of non-standard forms of work (organisation), but also constitutes a persisting challenge to the equal treatment of women and men.<sup>42</sup>

### 3.1.3. Cushioning of the Corona Crisis for Pensioners

The Act on Determining the Intervention Measures to Contain the COVID-19 Epidemic and to Mitigate its Consequences for Citizens and the Economy<sup>43</sup> provided a one-off lump-sum solidarity supplement for certain pensioners. Those with a pension of € 500 (which is the minimum pension in Slovenia) received a € 300 supplement; those with a pension of between € 500 and € 600 received a supplement of € 230; and those with a pension of up to € 700 received a supplement of € 130.<sup>44</sup> Persons with higher pensions were not entitled to a supplement.

The legal nature of these supplements is close to extraordinary social assistance, although no means test but only a very simple income test is required. No other income than the pension (e.g. no income from capital gains or property) and no income of other family or household members are taken into account. The question was also why such a supplement was required in the first place, since pensions were not reduced during the pandemic. Rather, the income of some (predominantly non-standard) workers and self-employed persons diminished or was reduced.<sup>45</sup>

It can be argued that more effort should be invested in structural and longer-term measures in order to improve the legal and social position of pensioners, rather than aiming at political success by way of a so-called ‘helicopter money’ distribution.

## 3.2. Mandatory Health Insurance

Recent developments in mandatory health insurance can be attributed to a controversy between the legislator, who tries to distinguish between public and private provision of healthcare, and the Constitutional Court, which is opposed to such a distinction. Moreover, social courts are confronted with increasingly complex situations of cross-border healthcare. Some measures adopted during the pandemic could furthermore function as a model for improving access to healthcare for the self-employed in the future.

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<sup>42</sup> Case C-385/11 *Elbal Moreno*, EU:C:2012:746 or C-161/18 *Villar Láziz*, EU:C:2019:382.

<sup>43</sup> *Zakon o interventnih ukrepih za zajezitev epidemije COVID-19 in omilitev njenih posledic za državljane in gospodarstvo* (ZIUZEOP), Official Gazette RS, No. 49/2020 as amended by No. 61/2020.

<sup>44</sup> Article 57 ZIUZEOP.

<sup>45</sup> Mišič, Luka, *Epidemija COVID-19 in izbrana vprašanja socialne varnosti: solidarnostna pomoč, zastoj zdravstvenega sistema ter položaj samozaposlenih oseb*, <https://www.pamfil.si/clanki/2020/4/13/epidemija-covid-19-in-izbrana-vprasanja-socialne-varnosti-solidarnostna-pomo-zastoj-zdravstvenega-sistema-ter-polozej-samozaposlenih-oseb>, June 2020.

### 3.2.1. Public Healthcare Provision for the Profits of Private Providers?

One of the prevailing, constantly topical questions is: Who should be responsible for income security if certain risks of life materialise? Should it be the State, regional or local communities and public institutes, or should it be left to the individuals, their employers, and to the possibility of concluding private insurance contracts?<sup>46</sup>

In the field of healthcare the delimitation between public and private responsibility is a highly complex issue. This can be noticed in distinctive areas of health insurance law,<sup>47</sup> e.g. when shaping the solidarity community of insured persons, when regulating administration of the health insurance system, or in terms of financing and defining sickness benefits in kind and in cash.<sup>48</sup> Also the distinction between public and private responsibility can be difficult in the context of healthcare provision. This is especially the case when the same healthcare provider is allowed to provide healthcare to public (socially insured) and to private (self-paying) patients. Such a mixed arrangement can arise when healthcare is offered by a public provider also to private patients or by a private provider to public patients.

Slovenian legislation tried to not delineate between distinctive legal organisational forms of healthcare providers, but between two legal regimes: public healthcare service and private (market-based) healthcare. The public regime, which is based on solidarity and financed out of social security contributions should not be for profit, regardless of whether healthcare is provided by public or by private (with concession)<sup>49</sup> healthcare providers.<sup>50</sup>

However, the Slovenian Constitutional Court did not agree with this solution and gave an advantage to the free economic initiative over the non-profitability of public healthcare services if provided by private doctors and medical companies.<sup>51</sup> The decision has been criticised,<sup>52</sup> since it can hardly be argued (as the Court did) that the legislation changed the legal organisational structure of private providers to that of public providers by introducing the prohibition to pay out and freely use profits gained by private providers when performing

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<sup>46</sup> Strban, Grega, Country Report on Slovenia, in: Becker, Ulrich; Pieters, Danny; Ross, Friso; Schoukens, Paul (eds.): Security: A General Principle of Social Security Law in Europe, Europa Law Publishing, Groningen 2010, 401.

<sup>47</sup> For instance in Germany, the upper earnings limit is referred to also as the peace limit (*Friedensgrenze*) between social and private health insurance. Schnapp, Friedrich E.; Kaltenborn, Markus, *Verfassungsrechtliche Fragen der "Friedensgrenze" zwischen privater und gesetzlicher Krankenversicherung*, Duncker & Humblot, Berlin, 2001. In Slovenia, supplementary insurance for co-payments is *de iure* voluntary, but *de facto* mandatory for the majority of insured persons. Mišič, Luka, *Zakaj (in kako) ukiniti sistem doplačil in dopolnilno zdravstveno zavarovanje?*, Delavci in delodajalci, 2020/1, 47.

<sup>48</sup> Strban, Grega, *Izzivi obveznega zdravstvenega zavarovanja, Iskanje ravnovesja med javno in zasebno odgovornostjo za zdravje*, Delavci in delodajalci, XIV, 2014, 2-3, 343.

<sup>49</sup> Concession is the admission to public healthcare provision. In addition, a contract with the Health Insurance Institute of Slovenia is required. Article 65 Health Care and Health Insurance Act [*Zakon o zdravstvenem varstvu in zdravstvenem zavarovanju*, ZZVZZ], Official Gazette RS, No. 9/92 to 36/19.

<sup>50</sup> Article 3 Health Services Act [*Zakon o zdravstveni dejavnosti*, ZZDej], Official Gazette RS, Nos. 9/92 to 73/19.

<sup>51</sup> Decision U-I-194/17, SI:USRS:2018:U.I.194.17, Official Gazette RS, No. 1/2019.

<sup>52</sup> Strban, Grega, *Vpliv standardov MOD na slovenski sistem socialne varnosti*, Delavci in delodajalci, 2019/4, 471.



public healthcare services. The public service is characterised by solidarity and non-profitability. Private providers are still free to establish themselves according to private law and to provide private for-profit healthcare in whichever form they desire. Only if they provide public healthcare to members of the public health insurance, and treatment is financed by mandatory contributions, they enter the public healthcare legal regime and should be treated on the same footing as public providers. Otherwise private profit can be made from public funds collected by social security contributions, which have a very specific purpose,<sup>53</sup> including the financing of healthcare. They cannot be utilised for any other purpose such as for the profit of private healthcare providers.

Moreover, the legislation did not hamper the constitutional right to free economic initiative, which is not granted as a fundamental human right. According to the Slovenian Constitution<sup>54</sup> such provision is contained in Chapter III on “Economic and Social Relations” and not in Chapter II on “Human Rights and Fundamental Freedoms”. Conversely, the right to social security is among the fundamental human rights,<sup>55</sup> and it could be undermined if profits were allowed out of public funds.

The question is whether there is a better solution. One solution could be to delineate between public and private healthcare provision and prevent patients from being steered towards more profitable private provision (also of public healthcare). Another solution could be to allow all private providers to treat public patients,<sup>56</sup> but with lower reimbursement.<sup>57</sup> The interest of private healthcare providers again became clear after the latest pandemic which made them receive fewer private patients than before. However, wealthier socially insured patients could be inclined to choose private providers and settle for lower reimbursement from public funds. This might in part be beneficial for public funds, but could endanger the entire public system. It is known that a system for the poor may soon become a poor system (since a lot more doctors would be providing healthcare to such ‘semi-private’ patients rather than solely to public patients).

### 3.2.2. Combining Different Legal Bases for Cross-Border Healthcare?

Incentives for patients to resort to private healthcare provision can also be observed in cross-border situations. It is difficult enough to know all the facets of the domestic public healthcare system, let alone those of the system of other Member States. For instance, in Croatian coastal

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<sup>53</sup> On the specific purpose of social security contributions: Bley, Helmar; Kreikebohm, Ralf; Marschner, Andreas, *Sozialrecht*, Luchterhand 2001, p. 165.

<sup>54</sup> Official Gazette RS, Nos. 33/91-I to 75/16.

<sup>55</sup> Article 50 of the Slovenian Constitution.

<sup>56</sup> As is the case in Austria (*Wahlärzte*), <https://www.gesundheit.gv.at/gesundheitsleistungen/arztbesuch/wahlarzt-kosten>, June 2020.

<sup>57</sup> E.g. at 80% of the public healthcare price in Austria.



cities private ambulances for tourists operate within the scope of public primary healthcare centres.<sup>58</sup>

Another interesting issue was raised before Slovenian social courts in relation to healthcare in Croatia, displaying differences between the two national healthcare systems. A person, insured in Slovenia, required urgent healthcare in Croatia. The patient used the European Health Insurance Card (EHIC) and received the same treatment as persons insured in Croatia. However, in Croatia the urgent healthcare status applies only until a person is taken to a hospital, whereas in Slovenia urgent care continues for as long as the person stays in the emergency department of a hospital, i.e. longer. Yet under Croatian law, the patient was charged with the costs of co-payments for an overnight stay in a Croatian hospital. These costs would not have been due if treated in Slovenia.

The First Instance Social Court<sup>59</sup> nevertheless applied Slovenian rules, and the Health Insurance Institute of Slovenia (HIIS) had to cover all costs (also of co-payments in the Croatian public hospital). The Higher Social Court,<sup>60</sup> however, changed the decision by applying EU social security coordination law and the law on equal treatment of EU citizens in another Member State.

An interesting discussion emerged at the yearly conference of labour and social court judges: it referred to whether in a similar case the rules of the Regulation (EC) 883/2004<sup>61</sup> and Directive 2011/24/EU<sup>62</sup> as transposed into national law could be applied at the same time. The argument of the European Commission is that the Cross-Border Directive is not limited to planned treatment and could be applied also to necessary treatment.<sup>63</sup>

However, such freeriding, even if beneficial to a moving person, might be against the equal treatment provision and solidarity of social security systems. By using the path of social security coordination, a patient is treated in the same way as a socially insured person in the (different) Member State of treatment (whereas the costs, according to the prices in the Member State of treatment, are covered by the mandatory health insurance of the Member State of insurance). By using, at the same time, the path of cross-border healthcare services, the remaining medical costs (e.g. co-payments that would have to be paid directly by a

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<sup>58</sup> See Croatian Health Insurance Institute <https://www.hzzo.hr/sl/zdravstvena-zastita-domacih-i-stranah-turista-u-republici-hrvatskoj-tijekom-ljetne-turisticke-sezone/>, June 2020.

<sup>59</sup> Decision VIII Ps 1196/2018, 12.6.2019.

<sup>60</sup> Decision Psp 212/2019, 29.8.2019.

<sup>61</sup> Regulation (EC) 883/2004 on the coordination of social security systems, OJ L 166/2004, as amended.

<sup>62</sup> Directive 2011/24/EU on the application of patients' rights in cross-border healthcare, OJ L 88/2011.

<sup>63</sup> Guidance note of the Commission services on the relationship between Regulations (EC) Nos. 883/2004 and 987/2009 on the coordination of social security systems and Directive 2011/24/EU on the application of patients' rights in cross-border healthcare, Note from the Commission of 21 May 2012 (AC 246/12). An Appendix to this Guidance note was issued on 28 May 2013 reinforcing the Commission's view. Conversely, Bieback, Karl-Jürgen, *Richtlinie 2011/24/EU – Patientenrichtlinie*, in: Fuchs, Maximilian (ed.) *Europäisches Sozialrecht*, 6<sup>th</sup> edition, Nomos, Baden-Baden 2013, 656 and Strban, Grega, *Patient Mobility in the European Union: Between Social Security Coordination and Free Movement of Services*, ERA Forum, 14, 2013, 3, 398.

patient) could later be reimbursed according to the prices of the Member State of insurance (if the latter provides broader coverage). This might only apply if necessary treatment would not include at least one overnight stay in a hospital,<sup>64</sup> and prior authorisation – also according to the Cross-Border Healthcare Directive as transposed into the Slovenian legal system – would be required.

### 3.2.3. Measures during the Pandemic – Temporary or Systemic Adjustments?

As a rule, mandatory health insurance covers the sickness cash benefit from the 31<sup>st</sup> day of sickness.<sup>65</sup> For the initial period, sickness pay is provided by the employer, while self-employed persons have to cover it from their own funds. However, during the time of the pandemic, the legislator modified these rules and provided the sickness cash benefit from the first day of sickness in all cases.<sup>66</sup> Such measures were directed at private sector employees and applied only until the end of (the first wave of) the pandemic, i.e. 30 May 2020.<sup>67</sup> Funding for this measure was provided to the mandatory health insurance by the State budget.<sup>68</sup>

However, the question has been raised whether self-employed persons should also be entitled to the sickness cash benefits for the first 30 days after the official declaration of the emergency state of pandemic in Slovenia. Their factual situation and legal position is more similar to that of subordinate workers than it was in the past. It has been established that one of the main difficulties of this kind of non-standard work was exactly the lack of a cash benefit for the first 30 days of sickness. Self-employed persons would even be interested in paying higher contributions in order to be entitled.<sup>69</sup>

Another measure related to the sickness cash benefit could be more problematic. During the time of the first wave of the pandemic in Slovenia, a personally selected physician was given authority to decide on the temporary incapacity for work for the entire year (usually only for the first 30 days, thereafter an appointed physician of the HIIS was in charge). Selected physicians might be closer to the patient and might be more lenient in their decision on the temporary incapacity of work. It is always useful to have the decision verified after a certain period of time. Of course, a problem might lie in the fact that an appointed physician may be

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<sup>64</sup> Strban, Grega, *The Right to Health in the EU*, in: Brameshuber, Elisabeth; Friedrich, Michael; Karl, Beatrix (eds.), *Festschrift Franz Marhold, Manz, Wien 2020*, 841.

<sup>65</sup> Exceptions: sickness cash benefit is paid already from the first day of sickness in case of e.g. isolation, transplantations, caring for a sick child. Article 29 ZZVZZ.

<sup>66</sup> Article 56 of the Act on Determining the Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy [*Zakon o interventnih ukrepih za zajezitev epidemije COVID-19 in omilitve njenih posledic za državljane in gospodarstvo*, ZIUZEOP], Official Gazette RS, No. 49/20, 60/20.

<sup>67</sup> Ordinance on the revocation of the emergency state of epidemic caused by the contagious disease SARS-CoV-2 (COVID-19) [Odlok o preklicu epidemije nalezljive bolezni SARS-CoV-2 (COVID-19)], Official Gazette RS, No. 68/20 was passed on 14 May 2020; it came into force on 15 May, but only had legal effect from 31 May 2020.

<sup>68</sup> Article 56, Paragraph 10 ZIUZEOP.

<sup>69</sup> Domadenik, Polona; Bagari, Sara; Franca, Valentina; Redek, Tjaša; Rihter, Liljana, *Empirična analiza prekarosti na trgu dela v Sloveniji*, in: Kresal Šoltes, Katarina; Strban, Grega; Domadenik, Polona (eds.), *Prekarno delo: multidisciplinarna analiza*, Pravna fakulteta UL, Ekonomska fakulteta UL, Ljubljana 2020, 268.

working at HIIS – which also pays out the sickness cash benefit. The introduction of a new institute on insurance medicine would allow more independent decisions to be made.

### 3.3. Unemployment Insurance

Under the unemployment insurance scheme, some adjustments were made to the regular unemployment benefit. Moreover, for the duration of the pandemic in Slovenia a so-called crisis unemployment benefit has been introduced.

#### 3.3.1. Unemployment Benefit

At the beginning of 2020, a new rule came into force that slightly restricted access to the unemployment benefit.<sup>70</sup> This legislative amendment extended the required insurance period for gaining access to unemployment benefits from previously nine months in the preceding two years to 10 months. This means that some workers with interruptions in their careers, e.g. working on fixed-term contracts, might be left without unemployment benefits.

Modifications have been made also to the duration of unemployment benefits receipt, especially for the elderly unemployed. In order to be entitled to an extended unemployment benefit<sup>71</sup> for 19 months, an unemployed person must now have completed an insurance period of more than 25 years and has to be at least 53 years old (before, age 50 was the limit). Moreover, to be entitled to the unemployment benefit for 25 months, an insurance period of more than 28 years and at least 58 years of age are required (before, 25 years of insurance and a minimum age of 55 years were sufficient). Although life expectancy is rising<sup>72</sup> and actual retirement age has increased, elderly unemployed persons are treated in a discriminatory way. The unemployment benefit amounts to 80% of the calculation base for the first three months, but diminishes to 60% after that. Legislative amendments of 2013 reduced unemployment benefits to 50% after one year.<sup>73</sup> In the latter case, this lowered the benefits only for elderly unemployed persons who are entitled to the extended unemployment benefit for more than one year.

Conversely, younger unemployed persons, i.e. those below 30 years of age, have easier access to the unemployment benefit, since the required insurance period is only six months during the two years preceding unemployment.<sup>74</sup> If they have at least six months, but less than the

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<sup>70</sup> Amendment E to the Labour Market Regulation Act [*Zakon o urejanju trga dela*, ZUTD, i.e. ZUTD-E], Official Gazette RS, No. 75/19.

<sup>71</sup> Unemployment benefit is normally provided for up to 12 months. More specifically, it is granted for 3 months for an insurance period ranging from 10 months to 5 years, 6 months for an insurance period from 5 to 15 years, 9 months for an insurance period from 15 to 25 years, and 12 months for an insurance period exceeding 12 months. Article 60 ZUTD, Official Gazette RS, Nos. 80/11 to 75/19.

<sup>72</sup> For boys born in 2019, life expectancy is slightly above 78 years, and for girls born in the same year it is approx. 84 years, <https://www.stat.si/StatWeb/Field/Index/17/95>, June 2020.

<sup>73</sup> Article 15 ZUTD-A (modifying Article 62 ZUTD), Official Gazette RS, No. 21/13.

<sup>74</sup> For granting easier access to unemployment benefit for younger unemployed persons, ZUTD was already modified in 2013, i.e. ZUTD-A, Official Gazette RS, No. 21/13.

regular period of 10 months of insurance, they are entitled to the unemployment benefit for two months only. Easier access means a higher standard also according to the ILO Convention No. 102 on minimum standards of social security. However, this Convention provides as minimum standard a duration of at least 13 weeks for the receipt of unemployment benefits. Hence, younger unemployed persons should be entitled to unemployment benefits also for at least three months and not less.<sup>75</sup>

### **3.3.2. Crisis Unemployment Benefit**

At the end of April 2020, a so-called crisis unemployment benefit was introduced.<sup>76</sup> The legal nature of such benefit was characterised as an extraordinary unemployment benefit, restricted in its duration to the first wave of the pandemic, i.e. from 13 March to 31 May 2020. The crisis benefit was directed at persons whose employment contract was terminated due to business reasons or whose fixed-term contract was not renewed, but who did not meet the requirements for a regular unemployment benefit.

The crisis unemployment benefit amounted to € 513.64 per month, slightly below the minimum amount of the regular unemployment benefit. The latter is set at a minimum of € 530.19 in gross terms. The maximum regular unemployment benefit amounts to € 892.50 in gross terms.<sup>77</sup> It should be noted that the upper limit is rather low, compared to the average wage in Slovenia, which amounts to € 1,266.13 in net terms and € 1,937.21 in gross terms (both in April 2020).<sup>78</sup> Hence, a person with an average wage will receive a maximum of less than half of the average wage as an unemployment benefit. For such persons, calculation percentages of 80%, 60% or 50% (see above) are actually meaningless.

### **3.4. Basic Income for the Self-Employed**

Quite some interest has been raised by the 'monthly basic income' intended for self-employed persons. The reason might be that it carries a title similar to the universal basic income (UBI). Basic income for the self-employed is, of course, no UBI. It was provided to self-employed persons (including priests, farmers and some company owners) who could not – or only with restrictions – continue to perform their activities, resulting in an income reduction of more than 10 percent. The condition was that there were no pending payments in terms of taxes and social security contributions, and that a statement of reduced activity on the platform *e-taxes* was lodged.<sup>79</sup> The basic income amounted to € 350 for the month of March 2020, and

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<sup>75</sup> Strban, Grega, *Vpliv standardov MOD na slovenski sistem socialne varnosti*, Delavci in delodajalci, 2019/4, 476.

<sup>76</sup> Article 61.a ZIUZEOP.

<sup>77</sup> Article 62 ZUTD.

<sup>78</sup> More at <https://www.stat.si/statweb/Field/Index/15/74>, June 2020.

<sup>79</sup> Articles 34 and 35 ZIUZEOP.

to € 700 for the months of April and May, respectively. A list of the beneficiaries is published since the above-mentioned statement is considered to be of a public nature.<sup>80</sup>

It seems that both, more left- and more right-wing governments are fascinated by the UBI. However, they might pursue distinctive goals with its introduction, ranging from promoting equality of opportunities to replacing the entire social security system with UBI and leaving all the remaining income security provision to private (insurance) markets. It is also interesting that no (Member) State has introduced a UBI in its original form. There are various ideas of shaping the UBI in regard of social and economic positions (selective UBI), activity (conditional UBI), limiting it to certain social groups (categorical UBI), or to a certain minimum (partial UBI), or differentiating between groups (segmented UBI) or households (non-individualised UBI), or restricting it to a certain time period (non-permanent or temporary UBI).<sup>81</sup>

However, to provide one uniform benefit for very distinctive groups of people with different needs might be perceived as unjust in the same way as would be to provide distinctive benefits to similar groups of people. Hence, by more intensively shaping the UBI one could come very close to the social security system we already know. The latter might be more suited to meet the distinctive needs of people in society.

### 3.5. Family Benefits and Social Assistance

Although being of a rather distinctive legal nature, family benefits and social assistance show some common characteristics. They are both provided to a family or to a household and financed out of the State (and sometimes also local community) budget.

Certain amendments to parental care insurance were passed at the end of 2019.<sup>82</sup> They concern new concepts of parental care, instead of the parental authority over children, in line with the new Family Code.<sup>83</sup> Moreover, paternity leave and corresponding benefits have been extended in case of multiple births or multiple adoptions. During the first wave of the 2020 pandemic in Slovenia, the time frame in which the paternity benefit could be used was extended if a father would have had to return to work. Interestingly, no similar measure has been set for mothers who had to return to work.

In line with a general orientation of the current government, only the benefit for large families has been raised during the pandemic. It is provided as a yearly lump-sum benefit to families with three children and, respectively, for families with four or more children. The first benefit

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<sup>80</sup> Article 37 ZIUZEOP, [https://www.fu.gov.si/e\\_storitve/seznam\\_upravicencev\\_do\\_mtd\\_in\\_oprostitve\\_placila\\_psv/](https://www.fu.gov.si/e_storitve/seznam_upravicencev_do_mtd_in_oprostitve_placila_psv/), June 2020.

<sup>81</sup> Mihalič, Renata; Strban, Grega, *Univerzalni temeljni dohodek*, GV Založba, Ljubljana 2015.

<sup>82</sup> Parental Protection and Family Benefits Act [*Zakon o starševskem varstvu in družinskih prejemkih*, ZSDP-1], Official Gazette RS, Nos. 26/14 to 81/19.

<sup>83</sup> Family Code [*Družinski zakonik*, DZ], Official Gazette RS, Nos. 15/17, 22/19.

was raised by € 100 and the second by € 200. Hence, they amounted to € 504.48 and € 691.52, respectively.<sup>84</sup>

The social assistance system has not seen a lot of modifications. Nevertheless, some additional assistance has been provided to certain recipients. Recipients of social assistance and supplementary allowance (not entitled to such a solidarity supplement as pensioners) as well as farmers above 65 years of age were entitled to a one-off solidarity supplement during the pandemic in Slovenia. The lump-sum solidarity supplement amounted to € 150.<sup>85</sup>

The law was later amended and a similar solidarity supplement was provided to family assistants, beneficiaries of the parental supplement, of the care supplement (for a child requiring special care), or of partial payment for lost income (while caring for a child that requires special care) and to recipients of the maternity and parental benefit with very low benefit amounts. It was also a lump-sum payment amounting to € 150. Recipients of the child benefit in classes 1-6 (out of 8) were entitled to a one-off lump-sum supplement of € 30.<sup>86</sup>

#### 4. CONCLUDING REMARKS

The only constant thing in life and in society is change. Developments in societal relations need to be followed by the normative action of the legislation, especially in the field of social security law. The Slovenian situation is not different in this respect.

It could be argued that there were some turbulent times during the reported period, characterised by the change of government and changes in social policy objectives, coupled with the new coronavirus pandemic. The law of social security had to be adjusted to such new realities. This again shows its nature as one of the most rapidly changing fields of law. If it were less dynamic, and not sensitive to the changes in society, it would become detached from it. Social security might survive as a system, but would not serve the people as it is its duty to do.

Hence, social security has to provide real security in a system characterised by solidarity and equal treatment. The latter has been achieved in pension insurance, providing equal pension rights for women and men with equal insurance periods. Of course, it should not be an isolated measure, and women, who (still) *de facto* continue to shoulder more care activities than men should be disburdened already before their retirement, i.e. during the time in which they provide care. Hence, one of the more structural reforms, already announced for some time,

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<sup>84</sup> Regular amounts are € 404.48 for large families with three children, and € 491.52 for families with four or more children. Article 77 ZSDP-1.

<sup>85</sup> Article 58 ZIUZEOP.

<sup>86</sup> Article 58.a ZIUZEOP.

should be the introduction of long-term care insurance, which is again high on the political agenda.

Solidarity, as a cornerstone of social security, might be questioned when workers, without reducing neither hours of work nor salary, are entitled to a (partial) old-age pension. Moreover, solidarity can also be questioned when funds collected through mandatory health insurance contributions are used for the profits of private healthcare providers, or when access to unemployment benefit is restricted and elderly unemployed persons are treated less favourably.

Moreover, in all social security schemes certain measures have been taken in order to cushion the negative consequences of the COVID-19 pandemic. The question remains whether abstract and not well-defined supplements could truly improve the social situation of the recipients. It might be better to modify the social security system as such, since history teaches us that crisis situations are usually not of a very short duration and that they are not a rare occurrence. Nevertheless, every challenge should be used to improve the social security system as the connecting tissue of every successful society, be it national or European.



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