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Chapter 4 - III

Protection and Social security of Platform Workers

: Development and Recent Legislative Policies of France's Social Security System

Yojiro Shibata*

(1) Problems and considerations

The style of work in which people accept work orders through the apps offered by platform operators ("PFs") is growing, and more people are now working through PFs ("PF workers"). Of these PF workers, quite a few are working as self-employed individuals through outsourcing agreements or other arrangements.

Compared to employed people, however, the self-employed don't receive sufficient social security benefits such as subsidies that help cover their risk[1]. This is especially true with social insurance for individuals, because worker's insurance (accident and unemployment) assumes that the person is employed, therefore making the self-employed inapplicable. And with medical care and pensions, two of the pillars of social insurance, the self-employed are required to pay the entire insurance premium themselves (through the national health insurance system, and as "Category-1 Insured Persons" in the national pension system) while premiums for employed people are split half and half between the employee and the employer (through the employer's health insurance and pension systems). In terms of benefits, there is no requirement to provide self-employed people with compensation for time off for reasons of injury, illness, or giving birth (national health insurance doesn't offer a mandatory injury and sickness allowance, and no such payments are available for childbirth), and only employees can receive welfare pensions. Moreover, for both costs and benefits, there are mechanisms that allow the supporting spouses of employees to receive payments without even paying any insurance premiums (as dependents in the employer's health insurance system or Category-3 Insured Persons in the national pension system), but no such mechanisms exist for the self-employed.

But it's not as simple as just applying the same social security benefits of the employed to the self-employed as well. This is because doing so would greatly increase the burden on PFs, which would in turn

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1 During past reforms to social security eligibility, temp workers were an issue, and there was a move to apply the social security programs for fulltime employees to them as well. But with PF workers, the issue is whether they are "employees" in the first place. Also, the same social security programs that apply to employees also apply to PF workers who are deemed to be employees based on how they actually work.

hinder the growth of business and the styles of work that rely on them as well as their potentially positive effects on society, the economy, and the environment. Workers would also lose the opportunity to select a type of work with less restrictions on their time and place because they are not employees.

This article therefore presents a perspective for considering PF worker protections based on the social security policies of France, which—like Japan—has seen remarkable growth in business and labor that uses PFs.

(2) Why France?

France's social security[2] system is the subject of our consideration for two reasons.

The first is that it has a similar structure (and thus similar problems). Both France and Japan have developed social security systems that place the social insurance system for employees at their core. Furthermore, they both have coexistent systems for self-employed individuals and have expanded who is eligible for social insurance. As a result, the differences in covered risk and benefits available to employed and self-employed people (see table) play a central role in the social security issues that arise from work done through PFs in France as well.[3]

And the second reason is the different approaches to reform and its rapidity adopted by the two nations. In Japan, reform has taken place while maintaining the bipolar structure of "employees" and "everyone else," and there have not yet been many changes to the social security system with regard to PF workers. Conversely, France has enacted reforms that establish the same level of benefits for both groups, as well as reforms that merge the different systems for employed and self-employed people. Some self-employed people have been eligible for worker's insurance since 2016, and unique reforms for protecting PF workers have also been implemented.

All of this suggests that France's system is relatively easily comparable to Japan and provides valuable insights. In the following section, we will explore the development of France's social security programs for self-employed people (1) and examine the post-2016 reforms to the worker's accident and unemployment insurance options available to self-employed people (2). Finally, we will look at the implications for Japan (3).

1 Self-employment under France's social security system

The following is a summary of how France's social security system developed, focusing on reforms related to self-employed workers.

2 In France, the following are referred to as social security (*sécurité sociale*): 1) social insurance (the various programs for medical, maternity, diability, death, old-age pension, and surviving family members), 2) worker's compensation, and 3) the family allowance. The term "social protection" (*protection sociale*) is used more broadly to include things like unemployment insurance and public assistance. Both are referred to as "social security" in this article.

3 C. LARRAZET, « Régime des plateformes numériques, du non-salariat au projet de charte sociale », *Droit social*, février 2019, p.171. ; L.-C. VIOSSAT, « Les enjeux clés de la protection sociale des travailleurs de plateformes », *regards en3s*, n°55, p.93.

Table: Differences in social security for the employed and self-employed in France (as of May 2020)

Type of Protection	Self-Employed	Employed
Healthcare Costs	Identical benefits	
Suspension of Work	Closure compensation allowance equal to 1/730 of the average work income for the most recent three calendar years 7-day waiting period (since 2018, it is only paid when the work stoppage is 7 days or more, and the waiting period is 3 days) No closure compensation allowance for micro-entrepreneurs that earn less than €3,806.80 per month	Closure compensation allowance equal to 50% of the person's daily wages 3-day waiting period
Maternity Leave	Same duration as employed women Compensation for leave that is 8 weeks or more	16 weeks with a compensation allowance
Supplemental Medical Insurance	No compulsory enrollment	Employers are required to provide supplemental medical insurance to all their employees Employers are responsible for paying at least 50% of the insurance premiums
Family Benefits	Identical benefits	
Getting insurance premiums for basic old-age pension paid (in quarterly units)	Self-employed individuals with a low income can have them paid for three quarters of the year at the minimum premium rate for the basic old-age pension (€827 in 2019) Micro-entrepreneurs must earn a minimum amount of revenue	Can have insurance premiums paid for one quarter of the year at a basic rate of 150 times the minimum wage (*salaire minimum de croissance* or "SMIC") for each wage period
Workplace Injury or Illness	No compulsory enrollment	Workplace injury or illness division of social security
Job Loss	Self-Employment Allowance	Unemployment insurance

Source: Partially modified from M. FORISSIER (et al.), « Travailleurs des plateformes: au-delà de la question du statut, quelles protections? », Rapport d'information, commission des affaires sociales, Sénat, n°452, 20 mai 2020, p.30.

(1) Creation of social security in 1945—Failure to universalize and the establishment of multiple systems

Social security was established in a systematic way in France in 1945. The idea at the time was *généralisation* (known as "universal healthcare" in Japan) under a single program called "general program" (*régime général*), which would apply to all French residents. However, this failed due to resistance from the various layers of society. This was true of self-employed individuals as well—they refused to participate in the "general program" due to reasons such as the high cost of its insurance premiums and the emotional anguish of being middle-class citizens lumped together in the same program with members of the working class.[4]

4 See (for example) P. LAROQUE, « De l'assurance sociale à la sécurité sociale », *Revue internationale de travail*, vol.57, n°6, p.635.

So by 1948, independent retirement-pension systems had already been established for artisans, self-employed people in commerce and industry, and liberal professions (doctors, lawyers, accountants, etc.). These were collectively known as "independent programs" (*régimes autonomes*). In other words, programs for the employed and the self-employed coexisted immediately after the systematic implementation of social security.[5]

(2) Growth of the social security system—Thirty Years of Glory (*Trente Glorieuses*)

During the subsequent 30 year period of rapid economic growth known as the "Thirty Years of Glory" (1945–1975), differences between the programs for employed and self-employed people continued to shrink. For example, a medical insurance system for self-employed individuals was created in the 1960s. In the 1970s, there was a movement toward matching the benefits provided under the various programs to a "general program" ("harmonization"),[6] and policies of "compensation" were enacted to transfer funds beyond the boundaries of individual programs in response to the worsening financial state of social security. Simultaneously, France succeeded in creating a "universal coverage under a single system" by eliminating the requirement of employment for receiving the family allowances, which have their own unique historical background, and by making foreign residents legally residing in the country also eligible to receive benefits.

(3) Universalization of medical insurance's benefits in kind[7] — Reforms in the late 90s and onwards

The benefits in kind (medical services) of medical insurance are provided based on need (medical necessity), not according to the person's (working) income. This is why the reforms expanded eligibility for benefits in kind to "all citizens," not just those who are employed at a job. Law No. 99-641 of July 27, 1999, created the *Couverture maladie universelle* or "Universal Health Coverage" (CMU), a program available to all residents of France who are unable to enroll in any employee-insurance systems. This program was to coexist with the employee-insurance systems already in place. The CMU allowed all people to enroll in medical insurance (thus achieving universalization) and to receive equal benefits in kind regardless of their work status.

In addition, Law No. 2015-1702 of December 21, 2015, abolished the CMU and created *protection universelle maladie* (PUMa). This made everyone in France eligible to be reimbursed for medical expenses, whether they work at a job or are simply legal and stable residents of the country; this weakened the link between occupation and healthcare protections. It also eliminated the idea of adult dependents—the right

5 In addition, some professions had their own unique social insurance since prior to WWII, including the "special programs" (*régimes spéciaux*) for people working in the railroad, mining, and maritime-transport industries as well as the "agricultural programs" (*régimes agricoles*) which gave special consideration to the needs of farmers.

6 For example, Law No. 72-554 of July 3, 1972, standardized the basic old-age pension benefits for artisans and merchants to the same level as the "general program". Also, steps were taken to bring the low reimbursement rates for medical services under "independent programs" closer to the "general program".

7 See Yojiro Shibata's "France-Iryo-Hosyo-Seido ni okeru jigyonushi no yakuwari (Role of Employers in France's Medical Security)," *Kenporen-Kaigai-Iryo-Hosyo* (*National Federation of Health Insurance Societies, Foreign Medical Security*), No.128 (2021), p.19.

to receive payments for benefits in kind was now available to everyone of adult age as a natural right (*droit propre*).

(4) Consolidating "independent programs" into a "general program"[8] — Post-2000s reforms

While they were reducing disparities in benefits (see (2) above), "independent programs" were also increasing their number of systems. And since each of these individual programs had maintained its independence, the decentralized and complex nature of their management and administration became a problem. In response to this, the "social program for the self-employed" (*Régime social des indépendants*: RSI) was established in 2005 to integrate the social insurance programs for artisans, people self-employed in commerce or industry, and in the agricultural sector (however, the old-age pension system for the liberal sector was not integrated). The RSI collected insurance premiums and social security contributions, acting as a single point of contact that self-employed people could consult regarding matters related to social security.

But it was plagued by various management problems—in particular, it was unable to collect large sums of insurance premiums because its link to the URSSAF's system that handles such collections was so poor that it couldn't process premium payments.[9] This led to the RSI being abolished and all its organizational functions being consolidated into a "general program".

Law No. 2017-1836 of December 30, 2017, established a period of transition during which authority would be transferred from the RSI to the "general program". At present, consolidation of the RSI into the "general program" only affects organizational functions, so benefits and premiums have remained the same for people that were formerly eligible for the RSI (benefits and premiums are not currently the same for self-employed people and those who are employed, the latter of whom will be the main ones insured under the "general program").

2 Post-2016 reforms to worker's accident and unemployment insurance for the self-employed

As shown above, France's social security programs for employed and self-employed residents were growing closer in terms of family allowances, medical treatment, pensions, and organizational administration. Yet large gaps remained in the protections available after a worker was in an accident or involuntarily lost their job (when an employee became unemployed).[10] So in 2016, we began to see legislation that guarantees such protections for self-employed people and PF workers.

8 See M. BORGETTO (et al.), *Droit de la sécurité sociale*, Dalloz, 20e éd., 2023, pp.1097 et s.

9 Tomoyuki Kato's "Hatarakikata ni churitsutekina shakaihoken-seido ni tsuite (A Workstyle-Neutral System for Social Insurance)," *Shakaiho no nakano jiritsu to rentai* (*Independence and Solidarity within Societal Laws*), compiled by Tetsunari Doko et al. (Junposha, 2022), p.409.

10 C. LARRAZET, *op. cit.* note3, p.172.; L.-C. VIOSSAT, *op. cit.* note3, pp.93 et s.

(1) El Khomri law (labor-reform law)

Enacted on August 8, 2016, the El Khomri law (No. 2016-1088; named after the labor minister at the time of the reforms; also known as the "labor-reform law") includes provisions aimed at making labor compatible with digitization as well as those related to labor that is performed through a PF.

① Social responsibility of PFs

Section 60 of the El Khomri law (Labor Code L. 7341-1 onward) protects PF workers by designating an electronic PF[11] as a *responsabilité sociale des plateformes* or "Social responsibility of platforms" with obligations to the self-employed people (PF workers) who use it for work "in cases where the [PF] itself determines the characteristics of the products or services offered as well as their value." These obligations include matters related to workplace injuries, the development of occupational skills, and the right to unionize.

Regarding work-related injury and death, PFs are responsible for paying the cost of insurance premiums (within a certain range) in cases where PF workers have either established insurance agreements that cover risks related to workplace injury or else enrolled in the voluntary worker's insurance described in the Social Security Code (compensation for medical expenses related to workplace accidents, subsidy payments if permanently disabled and unable to work, regular payments to dependents in the case of death in the workplace, etc.). However, a PF is not obligated to do this if it offers and pays the premiums for group insurance that provides at least the same level of protection as the voluntary worker's insurance described in the Social Security Code. Only PF workers who make above a certain threshold of revenue through the PF are eligible for such benefits.

② Assessing the social responsibility of PFs

Unlike with "legal" obligations, the "social" responsibilities of PFs do not come with penalties attached, making them insufficient and bringing their effectiveness into doubt.[12]

In practice, when establishing an insurance agreement or enrolling in a voluntary insurance policy for work-related accidents, the PF worker is required to submit a reimbursement claim to the PF for that insurance premium (Labor Code D. 7432-5). This means that the PF isn't required to immediately bear the cost of the premium, and it isn't obligated to enroll PF workers in worker's insurance.[13] Plus, PF workers that don't earn above a certain amount aren't even eligible.

With regard to this point, some insist that PFs should be forced to pay for insurance premiums even when there is no labor contract (when the individual isn't considered an employee), focusing on the fact that PFs "are financially benefitting from the activities of the workers" [14] (equivalence principle). The fact of the matter is that France already has social security programs that insure artists and authors, and these programs

11 Article 242 bis of France's general tax code defines it as a "company which puts people in contact electronically with a view to the sale of a good, the provision of a service, or the exchange or sharing of a good or a service."

12 I. DESBARATS, « Quel statut social pour les travailleurs des plateformes numériques? La RSE en renfort de la loi », *Droit social*, novembre 2017, p.979.

13 This creates the possibility that PFs will pressure PF workers to not enroll in worker's compensation (J. DIRRINGER, « L'avenir du droit de la protection sociale dans un monde ubérisé », *Revue française des affaires sociale*, n°2, 2018, pp.42 et s.).

14 See C. LARRAZET, *op. cit.* note3, p.172. ; R. MARIÉ, « La sécurité sociale des travailleurs indépendants: évolutions et perspectives », *Revue de droit sanitaire et social*, n°2 / 2020, p.377.

are funded not only by the premiums of the insured but also through the agents and distributors of their artistic works, despite the nonexistence of a labor contract (Social Security Code L. 382-4). Such distributors bear those costs because they "are financially benefitting from the activities of another." [15] And their portion is calculated not from the income of the artist or author but from the sales revenue earned by the distributor through the commercialization of the artistic works. Considering the above, it isn't an outlandish claim that the worker's compensation insurance for PF workers should be based on the revenue of the PF itself (rather than that of the PF worker) and should be funded wholly or in part by the PF.

Still, Uber and Deliveroo (two of the most well-known digital PFs) have partnered with major private insurer Axa to offer insurance free of charge to their drivers (PF workers).[16] This began after the El Khomri law was enacted, revealing that some PFs are proactively moving to protect their workers as part of their social responsibility regarding worker's compensation.

But their efforts fall short. Let's take a look at Uber's insurance agreement,[17] which chooses to define the risks it covers in a unique way rather than follow the standards for worker's compensation supplied in the Social Security Code. Essentially, it covers bodily harm caused by an external source from the time the trip starts until 15 minutes after the app is notified that the destination has been reached. This is in contrast to Social Security Code L. 411-1, which states that the determination of whether something is a work-related injury cannot be influenced by the cause of the injury. In fact, the Uber agreement explicitly excludes patients with cerebrovascular disease as well as events that are caused wholly or in part by pathological factors (in other words, it only covers traffic accidents). It also does not authorize payments for illnesses that occur due to the worsening of an underlying condition due to severe working conditions (intense stress, long working hours, etc.), because they are caused in part by a pathological condition. This strays from social security judicial precedent, which states that the cause of the accident is assumed to be work-related unless there is proof that the accident is completely unrelated to work.[18]

(2) Professional Future Law — The self-employment allowance

Law No. 2018-771 of September 5, 2018, on the Freedom to Choose One's Professional Future (the "Professional Future Law") reformed unemployment insurance and established provisions related to support systems and frameworks that help workers develop their professional skills.

Section 51 of the Professional Future Law (Labor Code L. 5424-24 onward) establishes an unemployment allowance for individuals who are self-employed as sole proprietors or subcontractors (*allocation des travailleurs indépendants*). Through the changes enacted in Law No. 2022-172 of February 14, 2022, this allowance now provides a fixed sum of 26.30 euros a day (about 800 euros each month) for a maximum of 182 days,

15 C. LARRAZET, *ibid.*, pp.171 et s.

16 Uber's insurance agreement can be viewed at https://uber.app.box.com/s/rcghmolgdqhryr8my54fzwzeeyg5t5sc , while Deliveroo's insurance agreement can be viewed at https://riders.deliveroo.fr/fr/indemnite-maladie.

17 See M. DEL SOL, « La protection sociale complémentaire des travailleurs de plateforme au risque du marché », *Droit social*, juillet-août 2021, p.596. The agreement referenced in that text is dated January 2021, while the current version is April 2023; however, there have been no changes that impact the points raised in this article.

18 Cass. civ. 2e, 28 janvier 2021, n°19-25.722.

depending on 1) previous time spent self-employed, 2) the state of the business,[19] 3) income earned through self-employment,[20] 4) job-hunting status, and 5) income earned from sources other than work-related activities. (Labor Code D. 5424-74 onward. The unemployment allowance paid to employees is proportional to their income, and the average payment received in the month of June 2023 was 1,295 euros.[21] The payment duration also varies according to the economic climate and the age of the individual, with a maximum of 36 months (if over the age of 55 in a bad economy.)).

(3) Mobility Orientation Law

The social responsibility of PFs was recognized once again in the Mobility Orientation Law (*orientation des mobilités*), Law No. 2019-1428 of December 24, 2019. Aiming to optimize mobility, the law expanded the social responsibilities of PFs that are involved in mobility and delivery, similar to the political policies that reduce regional disparities in mobility (lack of transportation) or that address the environment (measures against air pollution etc.).

① Increasing the social responsibility of PFs regarding mobility

Section 44 of the Mobility Orientation Law (Labor Code L. 7342-8 onward) increased social security for PF workers engaged in two activities, 1) driving (dispatch) services, and 2) product delivery via two- or three-wheeled vehicles. It did this by having PFs formulate their own charters (*charte*).

A charter establishes the rights and obligations of the PF and its PF workers as well as the conditions and means of the PF's social responsibility. It also contains supplemental social security (Labor Code L. 7342-9, 8°). This is optional social security tacked onto the mandatory programs. In France, it plays a particularly critical role in health insurance. The PF submits its charter to the relevant authorities, who review whether the PF is compliant with the contents of the charter then approve it if so (a process known as homologation). The PF may then post the approved charter on its website and add it to its terms of use and its contracts with PF workers. It has been noted that this framework is significant as a "new, market-leading regulation that aims to improve social protections by creating dialogue between companies and employees and achieving evaluation and assessment from the market."[22]

② Differences in the draft bill

However, two big changes have been made since the bill was first drafted.

The first is that the draft mandated the supplementary social security in all instances. This was ultimately changed to language that says "guarantee supplementary social security depending on the circumstances," so it isn't a requirement anymore. And even if a charter doesn't have any provisions related to the supplemen-

19 1) Engaging in a court-mandated corporate restructuring or liquidation, or 2) completely and definitively ceasing all activities due to a lack of financial sustainability.

20 At least €10,000 in a single year within the past two years.

21 See the website of the agency in charge of France's employment service (France Travail, the Public Employment Security Office) (https://statistiques.pole-emploi.org/indem/indempub/221752).

22 Shinpei Ishida et al.'s *Digital platforms to Rodoho—Rodosha-gainen no seisei to tenkai* (*Digital Platforms and Labor and Employment Law—A Comparative Legal Analysis of Worker Classification* (University of Tokyo Press, 2022), p.92 (the part written by Yuichiro Mizumachi).

tal social security, this does not affect its approval (①).[23]

And the second change is that the creation of a charter and adherence to it after its approval cannot be used to reframe the service-provider agreements between PFs and PF workers as labor contracts (so basically, PF workers are still self-employed). This was done to protect charter-forming PFs from the risk of having their agreements with workers reclassified as labor contracts.[24] In exchange for escaping their responsibilities as employers, PFs would strengthen their (supplementary) social security for PF workers.[25] However, this provision was deemed unconstitutional by the Constitutional Council in a decision (No. 2019-794 DC) dated December 20, 2019 (②).

So, whether or not to include provisions in the charter that grant supplementary social security to PF workers was left up to the PFs (①), and offering compensation to promote the creation of charters was struck down by the Constitutional Council (②). As a result, the supplementary social security is not being reliably provided to PF workers.

3 Conclusion — Organizing the issues

In this article, we examined France's social security system with a focus on self-employment. Below, we will summarize the situation in France (1) then offer some points for consideration when studying how to protect the social security of PF workers in Japan (2).

(1) The situation in France

When France's social security system was established in 1945, the goal was to cover all people with a single program ("*généralisation*"). "Independent programs" were created for the healthcare and pensions of the self-employed, however, and those programs ended up coexisting with the "general program" for the employed. Nevertheless, efforts were subsequently made to reduce disparities and adjust budgets in order to narrow the gap with the "general program". The family allowance was made universal in the 1970s, and medical-insurance benefits were universalized by a Law No. 99-641 of July 27, 1999. On the administrative side, the various "independent programs" were consolidated in 2005 under the RSI, then merged into the "general program" in 2018 (except for certain parts).

In 2016, a movement began to protect self-employed people and PF workers from work-related injuries and unemployment. The El Khomri law made the worker's compensation of PF workers a social responsibility of PFs. The Professional Future Law created the self-employment allowance and expanded unemployment insurance to include the self-employed. Then, the Mobility Orientation Law tried to grant supplementary social security to mobility-related PF workers through the creation of charters.

23 Rapport du projet TransSEN, *Transformations sociales et Economie Numérique*, septembre 2021, p.71. (the part written by M. DEL SOL)

24 *ÉTUDE D'IMPACT : PROJET DE LOI d'orientation des mobilités*, novembre 2018, p.196.

25 M. DEL SOL, *op. cit.* note17, pp.594 et s.

From this, we can say that France has generally moved to reduce the disparity between the social security rights of the employed and self-employed, and it has somewhat severed the link between a person's employment status and the granting of those rights.[26]

Ultimately, recent reforms aimed at PF workers and the self-employed have two main features. The first is the use of private insurance. The worker's compensation stipulated in the El Khomri law is simply forcing PFs to participate (through cost-sharing or voluntary contributions) in private insurance arrangements, which is different than a public social security program (the supplementary social security defined in the Mobility Orientation Law can also be seen as private insurance). And the second is that the same protections are not necessarily provided for the same risks. Compared to the worker's compensation for employed individuals, the insurance for PF workers (which is private insurance as indicated in the first point) is limited in the types of accidents it covers. In addition, the self-employment allowance established by the Professional Future Law is a fixed amount, while the unemployment allowance for employed people is based on their income.

(2) Points for consideration when studying social security protections for PF workers

The important thing about the above—although it should be obvious—is that it focuses on the "who," the "what," and the "how" when considering protections, rather than discussing the social security of PF workers as a single idea. And these three are mutually intertwined.

If we consider "who" is protected in France, we see the following sets of eligibility for (a part of) social security in the case of PF workers:[27] ① all people, including the unemployed ("*généralisation*", similar to Japan's healthcare system); ② all employed people, including those who are self-employed (Professional Future Law); and ③ employed people and some (self-employed) PF workers (El Khomri law, Mobility Orientation Law). ③ defines the PF worker by focusing on the financial power that the PF has in unilaterally setting the prices of products or services being offered. The fact that PF workers are laboring under the influence of a financially superior entity makes them eligible for rights under social security.[28]

But "who" is eligible depends on "what" is being protected—i.e., what risks are being covered and how it relates to the person's professional activities. Then, as with guaranteed healthcare and financial assistance for families, all individuals became protected from the risk which is separated from their professional activities (①), so everyone is receiving the same benefits. On the other hand, when it comes to risks related to one's professional activities, we are still searching for a way to protect all employed people from job loss itself (②), and to protect some PF workers from injury or illness that occurs during the course of their work (③).

And even if someone is eligible for protection, "how" that protection should be implemented requires separate consideration. The situation in France reveals that there are at least three ways of looking at this. First is a) the type of program—whether it is public insurance or private insurance. Whether enrollment is

26 I. DESBARATS, *op. cit.* note12, p.983.

27 For a discussion of the diversification and fluidization of labor relationships as well as a summary of how labor (not employment) is connected to eligibility for certain rights under social laws, also see A.SUPIOT (dir.), *Au-delà de l'emploi. Transformation du travail et devenir du droit du travail en Europe*, Flammarion, 1999, pp.88 ets.

28 J. DIRRINGER, *op. cit.* note13, pp.42 et s.

compulsory or not depends on which it is. Also, the scope and level of protection can vary wildly if there is no single system, and this is true even if you go with social insurance, much less with private insurance.

Then there's the question of b) funding, whether through taxes or insurance premiums (a mix of the two is possible, as well). Moreover, the insurance premiums for social insurance are sometimes calculated according to one's income, while those for private insurance are typically set according to the risk involved. There is room for consideration of who bears the cost of the insurance premiums, too. In France, some have claimed that the entity who benefits from the professional activities of a worker should help pay for that person's social security (see 2(1)② above).[29]

And finally, this is connected to c) how the benefits are distributed. Generally, fixed-sum benefits are a good match for being funded by taxes, while those that scale by income are better for income-based funding (insurance premiums).[30] Still, we must be careful to avoid creating a situation where different benefit calculations are used depending on eligibility status (such as whether the person is employed or self-employed), even for the same type of insured event.[31]

29 In Japan's special enrollment program for worker's compensation, self-employed people are responsible for paying the full amount of their insurance premiums; however, in France, PFs are required to bear some of these premium costs for PF workers as part of their social responsibility in some cases.

30 The fact that the typically low income of PF workers means that they won't receive sufficient protection under a benefit based on their income. So they are interested in combining fixed-sum benefits with tax-funded benefits (A. GAURON, « La protection sociale à l'heure du numérique: l'enjeu de l'affiliation et des cotisations patronales », *Revue française des affaires sociale*, n°2, 2018, pp.89 et s.).

31 Unemployment insurance in France is funded by employer-paid insurance premiums and proportional-rate taxes; employees receive benefits based on their income, while self-employed individuals receive fixed benefits. However, providing income-based benefits while using proportional-rate taxes rather than employee-paid premiums as the funding source creates inconsistencies between the funding and the benefits.