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## თვითდასაქმებულ პირთა სამართლებრივი სტატუსის განსაზღვრა თანამედროვე შრომის ბაზარზე

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სამართლის სკოლის მონვეული ლექტორი (საქართველო)

ელ.ფოსტა: [tatia.uberi@gmail.com](mailto:tatia.uberi@gmail.com)

თათია უბერი

### აბსტრაქტი

წინამდებარე სტატია განიხილავს თანამედროვე შრომის ბაზრის განვითარების ტენდენციებს და დასაქმების ბაზრის სამომავლო პერსპექტივებს, განსაზღვრავს ტექნოლოგიურ ეპოქაში შრომის ბაზრის განვითარების უახლეს მიდგომებს როგორც ქართული, ასევე ევროპული კავშირის დირექტივებისა და შრომის საერთაშორისო ორგანიზაციის დამკვიდრებული პრაქტიკის მაგალითებზე.

სტატიაში წარმოდგენილია თანამედროვე ქართული შრომის სამართლის ანალიზი ასოცირების ხელშეკრულებით ნაკისრ ვალდებულებებთან ურთიერთმიმართებით; სტანდარტული დასაქმებისა და თანამედროვე დასაქმების ბაზრის განვითარების ტენდენციების შედარება ქართული დასაქმების ბაზრის გამოწვევებისა და საკანონმდებლო მოწესრიგების კონტექსტში.

სტატიაში წარმოდგენილია დასაქმების ბაზარზე არსებული ინდივიდუალური სამუშაო პირობების სამართლებრივი ანალიზი, აღნიშნული თვალსაზრისით დადგენილი საერთაშორისო მიდგომები, რომლებსაც განვითარებული სახელმწიფოები განიხილავენ თანამედროვე ადამიანის ახალი დღის წესრიგად.

წინამდებარე სტატიის მიზანს წარმოადგენს თვითდასაქმებულ პირთა სამართლებრივი სტატუსის განსაზღვრა, დასაქმებულის და თვითდასაქმებულ პირთა სამართლებრივი სტატუსის გამიჯვნა შრომითი სამართლით უზრუნველყოფილი უფლებების თვალსაზრისით.

**საკვანძო სიტყვები:** შრომის სამართალი, განვითარება, დასაქმების ბაზარი, ფრილანსერი

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# EXPLORING THE LEGAL DEFINITION FOR SELF-EMPLOYMENT STATUS IN CONTEMPORARY LABOUR MARKET

**Tatia Uberi**

*PhD Student of the Law School at Caucasus University, Coordinate Council Member at – the National Center for Educational Quality Enhancement, Invited Lecturer of the Faculty of Law at Ivane Javakishvili Tbilisi State University, Invited Lecturer of the School of Law at Caucasus University (Georgia)*

Email: [tatia.uberi@gmail.com](mailto:tatia.uberi@gmail.com)

## ABSTRACT

The present article investigates the latest methodologies surrounding self-employment and delves into the current trends and prospects of labour market development in the modern technological era.

The article examines modern approaches in the Georgian and European Union Directives and the International Labor Organization. It includes an analysis of the current Georgian labour law within the framework of the obligations stipulated by the association agreement.

The article also explores individual working conditions and compares standard employment with modern employment market development trends within the context of the challenges in the Georgian employment market and its legislative regulation.

The research objective is to assess the legal status of self-employed individuals in the modern job market, based on evaluating their rights and protections.

**KEYWORDS:** Labour Law, Development, Labour market, Freelancer

## INTRODUCTION

*Explanation of self-employment status, the importance and relevance of understanding the legal framework*

„თუ თავი შენი შენ ვახლავს,  
ღარობად არ იხსენებ“ –

შოთა რუსთაველი – „ვეფხისტყაოსანი“<sup>1</sup>

The rapid changes in our modern world indicate that a technological revolution is underway. Technological advancements are shaping the social agenda and providing new ways of life. Those events are also known as the fourth industrial revolution, a fusion of technology, artificial intelligence, and automation, in which humans' primary function is to manage the process of updating and developing artificial intelligence properly.<sup>2</sup>

In the modern epoch, automation is underway in every field of work. For instance, robot lawyers write lawsuits<sup>3</sup> and courts are assisted by artificial intelligence.<sup>4</sup> The question is, what changes will the technological revolution bring to our lives?

Technological advancements have brought plenty of new opportunities in the labour market. However, these various job market platforms also cause particular challenges. One of the most significant global challenges is recruiting and retaining qualified employees.<sup>5</sup>

In the past decade, many developing countries have experienced intellectual migration, situated to their open economies and the abundance of human potential available.<sup>6</sup> This migration includes what is known as virtual migration, which involves self-employers and outsourcing.

However, this process can lead to a "brain drain" effect, as noted by Oxford Analytica in 2019.<sup>7</sup> While physical migration can potentially have a negative influence on national economies worldwide, as it may lead to a reduction in the tax base and this can potentially result in a significant financial loss for the governments, it is essential to consider it to stimulate and make a flexible environment for self-employed people at the national level while evaluating the potential consequences of migration. Therefore, pre-

1 “When you possess your true self, you are not poor anymore”. Shota Rustaveli – “The Knight in the Panther's Skin” (Translated by Tatia Uberi).

2 Asghar, S., Rextina, G., Tanveer, A. and IllahiTamimy, M., 2020. The Fourth Industrial revolution in the developing Nations: Challenges and road map. Commission on Science and Technology for Sustainable Development in the South (COMSATS). p. 5. [Online] available at: <[https://www.southcentre.int/wp-content/uploads/2020/02/RP102\\_The-Fourth-Industrial-Revolution-in-the-Developing-Nations-Challenges-and-Road-Map\\_EN-1.pdf](https://www.southcentre.int/wp-content/uploads/2020/02/RP102_The-Fourth-Industrial-Revolution-in-the-Developing-Nations-Challenges-and-Road-Map_EN-1.pdf)> [Accessed 10.05.2024].

3 Scherer, M., 2022. Artificial Intelligence and Legal Decision Making. The Wide Open Journal N/041119. p. 451.

4 McGowan, R., 2018. Judge v robot? Artificial intelligence and judicial decision-making. 41(4) UNSW Law Journal. [Online] available at: <[https://www.judcom.nsw.gov.au/publications/benchbks/judicial\\_officers/judge\\_v\\_robot.html#ftn.d5e24770](https://www.judcom.nsw.gov.au/publications/benchbks/judicial_officers/judge_v_robot.html#ftn.d5e24770)> [Accessed 10.05.2024].

5 Stropoli, R., 2024. Which workers will benefit from AI. Chicago Book Review. [Online] available at: <<https://www.chicagobooth.edu/review/which-workers-will-benefit-ai>> [Accessed 10.05.2024].

6 World Migration. 2023. General Section. An Overview of International Migration. [Online] available at: <[https://publications.iom.int/system/files/pdf/wmr\\_2003\\_1.pdf](https://publications.iom.int/system/files/pdf/wmr_2003_1.pdf)> [Accessed 10.05.2024].

7 Smirnova, E., Okhrimenko, I. and Zakharova, A., 2022. Review of Best Practices in Self-Employment Taxation. Public Organization Review, 24 (1). pp. 8-9.

venting the outflow of existing and potential taxpayers should be among the top priorities of a country's fiscal policy.

Nowadays, many companies are adopting employer branding strategies to attract and retain highly talented individuals.<sup>8</sup> As a result, there has been a decrease in candidates' inclination to pursue traditional job opportunities. At the same time, employee loyalty towards their employers has increased. Regarding forms and models of employment worldwide, including in Georgia, one of the most common ways of working nowadays is self-employment, with the term Freelance<sup>9</sup>. Freelancer<sup>10</sup> does particular work for different organizations rather than working all the time for one employer.

The gig economy, technological advancements, and evolving employment patterns have significantly influenced the work environment, leading to a substantial rise in self-employment worldwide.

Considering all the above facts, it has become crucial to study and research the new employment possibilities and characteristics to ensure a proper legal framework. The shaping characteristics of the legal form of self-employment ensure the constitutional right to pursue one's dreams and aspirations with the freedom to work for one term.

Remarkably, the legal framework for self-employment globally is complex and diverse. It considers different aspects, including the specific circumstances present in the area, and covers various issues related to employment status classification, labour rights protection, and access to social security benefits.

This article examines the legal standards governing self-employment under the European Directives. It will determine the legal status of self-employed persons from contemporary perspectives, assess the impact of existing legal regulations on their rights and obligations under the European Directives and International Labour Organization, and evaluate the effectiveness and efficiency following Georgia's national context.

The study should help self-employees better understand and establish appropriate value propositions based on the legal policy. The study's findings may impact and be the foundation for a legislative initiative to clarify the development of a legislative policy for the self-employed in Georgia, ensuring the protection of international standards of safety and ethics.

However, the study will also impact the job market and economic development and might reduce labour migration through the sectoral development of the national job market. A consistent and well-targeted self-employer strategy could attract and retain talented people and increase employee motivation and productivity.

## I. SELF-EMPLOYMENT IN THE GEORGIAN INSTITUTIONAL SETTING – THE RIGHT TO SELF-EMPLOYMENT STATUS

The Georgian Constitution contains several articles that clarify the country's commitment to ensuring its citizens' rights and promoting a fair society.

8 Ilic, B., Krušković, T. and Anđelić, S., 2023. Attracting and retaining employees as a result of effective employer brand management. *International Journal for Quality Research*, 17(4). p.197.

9 Fudge, J., McCrystal, S. and Sankaran, K., 2012. *Challenging the Legal Boundaries of Work Regulation*. Bloomsbury Publishing, p.175.

10 Definition. [Online] available at: <["Freelance" Cambridge Dictionary](https://www.dictionary.com/browse/freelance)> [Accessed 10.05.2024].

Article 12 of The Constitution of Georgia underscores, that everyone has the right to free development of his/her personality.<sup>11</sup> Article 6(2) declares the state's commitment to fostering a free and open economy, promoting entrepreneurship, and ensuring fair competition while safeguarding the universal right to private property.<sup>12</sup> While Article 12 guarantees the right to free personal development, Article 6 emphasizes the importance of a free economy, entrepreneurship, fair competition, and protection of private property. Article 26 (1) of the Georgian Constitution guarantees every individual the freedom to choose their profession.<sup>13</sup> Article 5 (1) of the Constitution of Georgia states that the country is a social state, which means that the state should promote social justice, equality, and solidarity among the nation.<sup>14</sup>

The government ensures citizens' access to the necessary resources, opportunities, and protections to live dignified lives, regardless of socioeconomic status. Furthermore, it underscores the importance of a fair and just society. The constitution of Georgia is a supreme law that ensures freedom in choosing a profession, as Georgia defines a social state and promotes social justice, equality, and solidarity.

Moreover, in 2014, The Association

Agreement between Georgia and the European Union<sup>15</sup> established sturdy connections. It upheld shared principles outlined in the Partnership Agreement between the European Communities, their Member States, and Georgia<sup>16</sup>. These connections ensure the Eastern Partnership, a distinctive aspect of the European neighbourhood Policy. The Parties recognize their shared desire to ambitiously and innovatively strengthen and extend their relations. They also acknowledge Georgia's European aspirations and its choice to align with Europe. Article 228 of the agreement confesses that each Party has the right to establish its sustainable development policies and priorities to determine domestic environmental and labour protection policies. Thus, countries are encouraged to adjust their laws and policies to globally accepted standards. As long as their amendments remain in line with these standards, they are free to make choices that are most appropriate to enable a customised policy-making approach while still upholding a dedication to universal standards.<sup>17</sup> Each party in this agreement should ensure that their laws and policies promote and support environmental and labour protection. Each party needs to improve policies while providing robust forthcoming protec-

11 Article 12, Constitution of Georgia. [Online] available at: <<https://matsne.gov.ge/en/document/view/30346?publication=36>> [Accessed 10.05.2024].

12 Ibid. Article 6 (2).

13 Ibid. Article 26 (1).

14 Ibid. Article 5 (1).

15 Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part. Official Journal of the European Union. [Online] available at: <[https://eur-lex.europa.eu/eli/agree\\_internation/2014/494/oj](https://eur-lex.europa.eu/eli/agree_internation/2014/494/oj)> [Accessed 10.05.2024].

16 Proposal for a Council and Commission Decision on the conclusion of a Protocol to the Partnership and Cooperation Agreement between the European Communities and their Member States, of the one part, and the Russian Federation, of the other part (presented by the Commission). [Online] available at: <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31999D0515>> [Accessed 10.05.2024].

17 Labeledzka, A., 2018. The European Union and shaping of its neighborhood: in pursuit of stability, security and prosperity. Doctoral thesis, City University of London. [Online] available at: <<https://openaccess.city.ac.uk/id/eprint/22196/>> [Accessed 10.05.2024].

tion measures. Moreover, Appendix XXX to the agreement outlines the implementation of the labour policy directives of the European Union at the national level.

Expanding the road to European society and ensuring and protecting constitutional rights to align with contemporary public requirements are essential.

## Importance of Laws and Regulations in a National Context

One of the main challenges in the self-employment legal framework is the differentiation of individuals as either independent contractors or employees. For instance, in European Union countries, the classification criteria vary, with some countries adopting a more stringent approach to differentiate between self-employed individuals and employees. For Example, the distinction is primarily determined by considering factors like control, financial independence, and relationship type in determining employment status. Self-employment allows individuals to operate as independent business owners, freelancers, or independent contractors and provides greater flexibility and control over work schedules, prices, and administrative tasks. Self-employed individuals come from various

professions, such as writers, designers, consultants, and tradespeople. While self-employment can offer considerable freedom and independence, it also includes challenges like financial management and maintaining a consistent work stream<sup>18</sup>.

In Georgia, The 1920 Labor Contract Law of the Government of the Republic of Georgia The Constituent Assembly defined the concept of a self-employed person.<sup>19</sup>

According to Article 2(1) of the Law of Georgia on Entrepreneurs, an entrepreneur is defined as a natural or legal person with an undertaking.<sup>20</sup> Furthermore, Article 2(5) specifies that an individual entrepreneur is not considered a legal entity and conducts business as a natural person, exercising their rights and fulfilling their obligations, which means that individual entrepreneurs are responsible for their actions and are personally accountable for their business activities.<sup>21</sup> While an individual entrepreneur engages in business activities, they are personally responsible for all their obligations to creditors using all their assets unless there is a prior agreement between the entrepreneur and the creditor. This liability applies except for the standard contractual conditions established by the Civil Code of Georgia. Usually, self-employed persons provide services within the framework of contractual relations defined based on the Civil Code of Georgia (types of contract forms

18 International Labour Organization. Non-standard forms of employment. Disguised-employment-dependent-self-employment. [Online] available at: <<https://www.ilo.org/resource/other/disguised-employment-dependent-self-employment>> [Accessed 10.05.2024].

19 Sturua, N., 2018. Dissertation: Comparative legal analysis of Georgian labor regulations with Western standards. Ivane Javakhishvili Tbilisi State University, Faculty of Law. p. 18. [Online] available at: <[http://press.tsu.ge/data/image\\_db\\_innova/nata-sturua-sadoqtoro-nashromi.pdf](http://press.tsu.ge/data/image_db_innova/nata-sturua-sadoqtoro-nashromi.pdf)> [Accessed 10.05.2024].

For more information, see: Law of the Constituent Assembly and the Government of the Republic of Georgia of August 14, 1920 on "Labor Contract", a collection of legal acts of the Democratic Republic of Georgia, 1918-1921, 1990.

20 Article 2 (1), Law of Georgia on Entrepreneurs. [Online] available at: <<https://matsne.gov.ge/en/document/view/5230186?publication=6>> [Accessed 10.05.2024].

21 Ibid. Article 2 (5).

commonly used, such as Contract for Work<sup>22</sup> and Contract on Mandate<sup>23</sup>).

An individual entrepreneur is not a legal entity but has the status of a natural person registered under the Law of Georgia on Entrepreneurs. A sole proprietorship is considered a one-person company that operates independently in business relations, with limitations on having business partners. According to Article 36 (1. a) of the Georgia tax code, an entrepreneur is a natural person who conducts business activities and is registered as an individual entrepreneur under the Law of Georgia on Entrepreneurs. Additionally, as per Article 36 (1. b), a natural person who engages in an activity specified in Article 3(1) of the Law of Georgia on Entrepreneurs is also considered an entrepreneur. Individual entrepreneurs are personally liable to creditors with all their assets for all obligations arising from their entrepreneurial activity. Article 36 (2) of Georgia's tax code stipulates, that the omission of registration, licensing, or permitting by a natural person mentioned in the article's first paragraph who engages in economic activities, does not preclude recognising mentioned person as an entrepreneur for tax purposes.

When considering hiring a self-employed individual, it is crucial to carefully evaluate their work performance through a structured workload rather than a one-time task. A structured workload empowers self-employed in-

dividuals to effectively and efficiently manage their tasks, ensuring timely and quality completion to the expected standards.

Georgia's legal approach to self-employment considers simplicity, transparency, and minimal bureaucracy. The country offers a flat tax rate for individuals and businesses, simplified business registration and licensing procedures and a favourable investment climate encouraging entrepreneurship.

Additionally, initiatives such as the Georgian Innovation and Technology Agency (GITA)<sup>24</sup> support and fund startups and small businesses, are fostering a vibrant entrepreneurial ecosystem.

On the other hand, to distinguish self-employment from the labour relationship, the status of an employee should be reserved only for natural persons who perform work "under conditions of organizational order". This distinction is among the qualifying factors that distinguish the labour relationship from other forms of work performance, such as "independent contractor" or "self-employed".<sup>25</sup> The executor is responsible for planning the work process and is not bound to adapt to the changing requirements of the employer during the process. With organizational order and subordination, an individual's work performance can constitute sufficient grounds for qualifying the relationship as a labour relationship between employee and employer.

Consequently, while concluding the du-

22 Article 629 (1), Civil Code of Georgia: Under a contract for work, the contractor undertakes to perform the work specified in the contract and the client assumes an obligation to pay the agreed compensation to the contractor. [Online] available at: <<https://matsne.gov.ge/en/document/view/31702?publication=129>> [Accessed 10.05.2024].

23 Article 709, Civil Code of Georgia: Under a contract of mandate the mandatary shall be obligated to perform one or several actions mandated (entrusted) to him/her on behalf and at the expense of the mandator. [Online] available at: <<https://matsne.gov.ge/en/document/view/31702?publication=129>> [Accessed 10.05.2024].

24 [Online] available at <[Georgian Innovation and Technology Agency \(GITA\)](#)> [Accessed 10.05.2024].

25 Zaalishvili, V., In the book: Kereselidze, D. and others, 2023. Commentary on the Labour Code of Georgia, Article 3. Tbilisi: p.13. [Online] available at: <[შრომის კოდექსის კომენტარი.pdf](#)> [Accessed 10.05.2024].

ties and obligations under the contract, there is no need to agree on individual performance details with the customer periodically. Thus, regardless of their profession, all natural persons who perform according to the necessary criteria—"under conditions of organizational order"—to qualify for a relationship under labour law are considered employed.<sup>26</sup>

In this case, these features are one of the most crucial factors distinguishing the labour relationship from the "self-employed" because there is no organizational order and subordination elements. The labour contract's primary distinctive criterion is its "subordination" status.<sup>27</sup> This principle requires the employee to fulfil the employer's instructions while the employer compensates the employee accordingly. In other words, the employee agrees to work under the employer's direction in exchange for compensation. This subordination is a fundamental aspect of the employment relationship and distinguishes it from other contractual arrangements. Employees must perform their duties personally and in a subordinate role, following the employer's instructions and labour regulations.<sup>28</sup>

Even more, the approach to labour law as the "*favor prestatoris*" principle prioritises rules that are advantageous to employees and only apply to labour contracts.<sup>29</sup>

Self-employment and freelancing are two common types of independent work arrangements. They have distinct characteristics and implications for workers' rights and legal status. Understanding the exact differences between self-employment and freelancing is essential. While self-employment provides individuals with autonomy and flexibility, it also presents legal and regulatory challenges with labour rights, social protection, and other socioeconomic benefits.

Self-employment is a form of entrepreneurship where an individual operates and manages their business or trade without being ruled by any labour contract. It represents a type of work where the individual is responsible for all aspects of the business operation.<sup>30</sup>

In today's global landscape, Georgian freelancers as self-employees are increasingly working towards establishing a solid presence on the international stage. However, for a successful career, one must have a clear vision, a strategic approach, and a solid legal foundation. Georgian freelancers rely heavily on intuition and general knowledge without comprehensively understanding job seekers' needs and preferences. Different factors, such as the legal framework's social, demographic, and cultural aspects, may influence freelancers' perception of brand attributes. Con-

26 Shvelidze, Z., In the book: Shvelidze, Z. and others, 2017. Georgian Labor Law and International Labor Standards. International Labour Organization, p. 33. [Online] available at: <[https://tsu.ge/data/file\\_db/faculty\\_law/shromis%20sam.pdf](https://tsu.ge/data/file_db/faculty_law/shromis%20sam.pdf)> [Accessed 10.05.2024].

27 The decision of the Supreme Court of Georgia, 17 February 2017 (case №as-1132-1088-2016). [Online] available at: <<https://www.supremecourt.ge/files/upload-file/pdf/shromiti-xelshekrulebis-shewyveta.pdf>> [Accessed: 10.05.2024].

28 The decision of the Supreme Court of Georgia, 10 October 2011 (case №as – 1129-1156-2011). [Online] available at: <<https://www.supremecourt.ge/files/upload-file/pdf/kr201211.pdf>> [Accessed: 10.05.2024].

29 The decision of the Supreme Court of Georgia 29 June 2016 (case №as – 951-901-2015). [Online] available at: <<https://www.supremecourt.ge/ka/fullcase/58857/1>> [Accessed 10.05.2024].

30 International Labour Organization. 2016. Disguised employment / Dependent self-employment. [Online] available at: <[International Labour Organization on Non-standard forms of employment](https://www.ilo.org/public/libdoc/iloorg/2016/05/160301.pdf)> [Accessed 10.05.2024].

sidering the significant differences between generations, exploring how individuals from different age groups perceive and prioritize modern aspects of non-standard employment would be valuable.

At this stage, freelancers are typically digital technology specialists, internet technology specialists, and computer engineers. However, there is a growing trend of self-employment in these fields in today's labour market. With the continuous advancements in technology, professionals from different industries will have the opportunity to work as freelancers.<sup>31</sup>

## II. SELF-EMPLOYMENT LEGAL ARRANGEMENTS IN THE EUROPEAN UNION

### Towards Global Patterns of Workstyle

The freelance economy is growing, and more professionals are working independently. Freelancing offers many benefits, such as unique opportunities and flexible workloads. However, many freelancers are financially constrained and need help to pursue legal action against hiring parties who breach their contracts. Unfortunately, some hiring parties

may view it advantageous to breach their contracts with freelancers, leaving the latter individuals in a difficult position. Freelancers may be disadvantaged because they need more legal expertise and resources to pursue legal action against the hiring parties. This vulnerability in the freelance economy has led to the coining of the term "naked economy."<sup>32</sup> While freelancing offers numerous benefits, it has its challenges. Freelancers must exercise caution when entering into contracts and ensure that the terms of the agreement are legally binding and enforceable.

According to *EU Directives*, self-employed individuals are recognized as independent contractors and have complete autonomy over their work. They have the flexibility to set their working schedule and are responsible for managing all aspects of their business, including operations, finances, and risks. They provide services or products to clients or customers through contractual agreements. On the other hand, unlike a self-employed person, Special legislation concerning labour relations regulates the unique nature of the relationship between an employee and an employer. An employee is engaged in paid work under the organised labour regulations of their employer. It is essential to prevent unfair restrictions from being imposed on ei-

31 The world's largest companies/digital platforms for freelancers. [Online] available at: <<https://www.freelancer.com/>; <https://www.upwork.com/>> [Accessed: 10.05.2024]. In Georgia, through the mentioned digital platforms, the main employment area is in the form of short-term, hourly workload projects. [Online] available at: <<https://ido.ge/>> [Accessed: 10.05.2024].

In the United States the largest American platform, through which ensures access to famous developers, and companies throughout the world. The working model is mostly within the framework of long-term projects of a full-time job. This platform is an opportunity for those who have a good reputation and a high rate of review of employers. Successful specialists registered on this platform have the opportunity to be employed in the world's largest companies – at the basic staff rate. [Online] available at: <<https://www.turing.com/>> [Accessed 10.05.2024].

32 R. Miller, M., 2015. Getting Paid in the Naked Economy. Touro Law Center Legal Studies Research Paper Series No. 16-13. p. 279.

ther party involved in the contract.<sup>33</sup> Self-employed individuals must comply with national legislation regarding business registration, taxation, and social security contributions. Despite the freedom and flexibility they enjoy in their work arrangements, self-employed individuals may need help accessing social safeguards, such as unemployment benefits, sick leave, and retirement plans, as determined by the regulations of each European Union member state.

European Union (EU) ensures that self-employment is defined clearly and consistently across all European Union member states. EU Directives promote fair competition and prevent market distortions while protecting the rights of self-employed individuals and providing access to social protection. They also streamline the process for establishing and operating self-employed businesses across various member states, encouraging administrative simplification and reducing the burden on self-employed individuals.

It's important to note that while entrepreneurs in the European Union enjoy a great deal of freedom, this freedom is subject to certain conditions, such as compliance with national laws and regulations and a protective environment. This provision encourages entrepreneurship, innovation, and economic growth within the EU. Additionally, entrepreneurs can operate in any EU member state if they adhere to these conditions. Thus, they have the right to establish and manage their businesses independently, without being limited by geographical boundaries.

The European Union has implemented various regulations to safeguard the interests and

welfare of self-employed professionals. It has introduced a framework to regulate self-employment in all its member states. Its objective is to promote a sustainable self-employment sector, ensure fair competition, and protect the rights of self-employed individuals. The European Union encourages freelancers and manages the legal aspects of this institution.

One of the most essential pieces of evidence is *The Green Paper on modernising labour law*.<sup>34</sup> One of these fundamental documents reflects on these changes in later years proposes necessary updates to ensure that labour laws keep pace with the evolving nature of work, and discusses potential reforms to modernise labour laws following contemporary challenges. According to the document, labour laws must keep pace with the changing employment landscape, which includes remote work, freelance, and gig economy roles. Moreover, the laws should prioritize data privacy protection and fair treatment for workers across borders, necessitating global cooperation and uniform standards. The rise of freelance work, rather than traditional permanent jobs, poses new challenges for labour law and explores ways to provide gig workers with more excellent stability, benefits, and protections similar to those full-time employees enjoy. Potential solutions include expanding the definition of employment categories to include gig workers, mandating minimum wage guarantees, and ensuring access to social security systems.

The traditional employer-employee relationship may need to be revised to accommodate the fluidity and flexibility of modern work scenarios. It also suggests strengthening

33 Kereselidze, d., In the book: Kereselidze, d. and others, 2023. Commentary on the Labour Code of Georgia. Article 1, p. 5. [Online] available at: <[შრომის კოდექსის კომენტარი.pdf](#)> [Accessed 10.05.2024].

34 Commission of The European Communities. 2006. Green Paper. Modernising labour law to meet the challenges of the 21st century. Brussels. COM(2006)-708 final. [Online] available at: <[https://www.europarl.europa.eu/meetdocs/2004\\_2009/documents/com/com\\_com\(2006\)0708\\_/com\\_com\(2006\)0708\\_en.pdf](https://www.europarl.europa.eu/meetdocs/2004_2009/documents/com/com_com(2006)0708_/com_com(2006)0708_en.pdf)> [Accessed 10.05.2024].

anti-discrimination laws, improving work-life balance, and ensuring equal access to career advancement and training opportunities for workers from all backgrounds to address these issues.

Article 54 of *The Treaty on Functioning of the European Union (TFEU)*<sup>35</sup> guarantees self-employed individuals the freedom to establish their businesses in any EU member state. It entitles them to develop and operate their companies in EU member states.<sup>36</sup>

*Directive 2010/41/EU*<sup>37</sup> outlines the criteria for defining self-employment status and distinguishing it from employment. It considers several factors, such as the level of control over work, the presence of a contract, and the assumption of risk. This directive focuses on equal treatment for self-employed men and women, ensuring they enjoy similar so-

cial protection rights as employees, including maternity benefits.

*The Directive 2014/52/EU (Revised Framework Directive)*<sup>38</sup> expands social protection for self-employed individuals by granting them access to healthcare, maternity leave, and pensions. This directive ensures their well-being and financial security and aims to improve the social protection of self-employed individuals by giving them access to healthcare, maternity leave, and pensions.

*Directive 2000/43/EC (Racial Equality Directive)*<sup>39</sup> and *Directive 2000/78/EC (Employment Equality Directive)*,<sup>40</sup> ensure for self-employed individuals protections against discrimination based on race, religion, disability, age, and sexual orientation.

*Directive (EU) 2019/1152 (Transparent and Predictable Working Conditions Direc-*

35 Treaty on the Functioning of the European Union (TFEU) Consolidated Version. 2012. [Online] available at: <<https://eur-lex.europa.eu/LexUriServ/LexUriServ>> [Accessed 10.05.2024].

36 Directive 2012/30/EU of the European Parliament and of the Council of 25 October 2012 on coordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 54 of the Treaty on the Functioning of the European Union, in respect of the formation of public limited liability companies and the maintenance and alteration of their capital, with a view to making such safeguards equivalent. [Online] available at: <<https://eur-lex.europa.eu/LexUriServ/LexUriServ>> [Accessed 10.05.2024].

37 Directive 2010/41/EU of The European Parliament and of The Council On the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC. [Online] available at: <<https://www.eumonitor.eu/9353000/1>> [Accessed 10.05.2024].

38 Directive 2014/52/EU of The European Parliament and of The Council, of 16 April 2014. Amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment. [Online] available at: <<https://eur-lex.europa.eu/legal-content/EN/TXT>> [Accessed 10.05.2024].

39 Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. Official Journal L180,19/07/2000. [Online] available at: <<https://eur-lex.europa.eu/legal-content/EN/TXT>> [Accessed 10.05.2024].

40 Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation. Official Journal L 303, 02/12/2000 P. 0016 – 0022. [Online] available at: <<https://eur-lex.europa.eu/legal-content/EN/TXT>> [Accessed 10.05.2024].

tive)<sup>41</sup> While primarily aimed at employees, this directive also has implications for self-employed workers, especially those working through digital platforms, by setting minimum rights for more transparent working conditions. Also, Directive 89/391/EEC (OSH Framework Directive)<sup>42</sup> Though originally targeted at employees, certain provisions of the Occupational Safety and Health (OSH) directive are increasingly interpreted to provide guidelines for self-employed persons, particularly in high-risk sectors. *Directive (EU) 2015/2366* (Payment Services Directive 2, or PSD2)<sup>43</sup> impacts self-employed individuals by enhancing security and competition in electronic payments, which is crucial for those operating online businesses. *Directive (EU) 2016/1148* (NIS Directive)<sup>44</sup> concerns network and information systems security and impacts self-employed individuals managing digital enterprises, necessitating compliance with cybersecurity standards.

*The Council Directive 2006/112/EC* (VAT Directive)<sup>45</sup> outlines the VAT treatment for self-employed individuals, ensuring fair competition. The European Union has implemented various regulations to safeguard the interests and welfare of self-employed professionals. These regulations provide self-employed individuals with a clear definition of their status and distinguish it from employment and unemployment. This directive lays down the rules for the VAT system across member states, affecting how self-employed individuals handle VAT when providing goods and services within the EU.

*The Council Directive (2003)/49/EC* (Tax Directives)<sup>46</sup> aligns tax regulations and prevents double taxation for self-employed individuals across multiple member states. *Directive 2008/8/EC*<sup>47</sup> amends the VAT Directive concerning the place of supply of services, influencing how self-employed persons manage cross-border service provisions.

41 Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union. Official Journal of the European Union. [Online] available at: <<https://eur-lex.europa.eu/legal-content/EN/TXT>> [Accessed 10.05.2024].

42 Directive 89/391/EEC – OSH "Framework Directive" of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work – "Framework Directive" Latest update: 03/05/2021. [Online] available at: <<https://osha.europa.eu/en/legislation/directives/the-osh-framework-directive/>> [Accessed 10.05.2024].

43 Directive (EU) 2015/2366 (Payment Service Directive 2 - PSD 2). [Online] available at: <[https://www.eumonitor.eu/9353000/1/j4nvk6yhcbpeywk\\_j9vvik7m1c3gyxp/vk0vn25mntsj#:~:text=Directive%20\(EU\)%202015%2F2366%20](https://www.eumonitor.eu/9353000/1/j4nvk6yhcbpeywk_j9vvik7m1c3gyxp/vk0vn25mntsj#:~:text=Directive%20(EU)%202015%2F2366%20)> [Accessed 10.05.2024].

44 Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union. Official Journal of the European Union. [Online] available at: <<https://eur-lex.europa.eu/eli/dir/2016/1148/oj>> [Accessed 10.05.2024].

45 The rules on rates of value added tax (VAT) as currently set out in Council Directive 2006/112/EC (the VAT Directive). [Online] available at: <<https://eur-lex.europa.eu/legal-content/EN/TXT>> [Accessed 10.05.2024].

46 Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States. [Online] available at: <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003L0049&from=FI>> [Accessed 10.05.2024].

47 Council Directive 2008/8/EC of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services. Official journal of the European union. [Online] available at: <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32008L0008>> [Accessed 10.05.2024].

*Regulation (EU) 2018/1724 (Single et al.)*<sup>48</sup> establishes a digital platform for self-employed individuals to access information and services related to their businesses. This platform aims to facilitate access to relevant information and services, making it easier for self-employed professionals to run their businesses more efficiently.

In the EU, self-employment regulations are established through national laws and regulations, and member states are held accountable for implementing and enforcing EU Directives.

The European Directives mentioned above clearly ensure the interests of the self-employed with a minimum protection standard. On behalf of the established frameworks under the European Directives, entrepreneurs can pursue their professional goals independently without being restricted by geographical boundaries. However, it is essential to note that this freedom is subject to certain conditions, such as compliance with national laws and regulations and protecting public health, safety, and the environment. This provision promotes entrepreneurship, innovation, and economic growth within the European Union. Moreover, they operate their businesses in any EU member state, subject to certain conditions, providing self-employed individuals the right to establish and manage their businesses in any EU member state. Thus, entrepreneurs can pursue their professional goals independently without being restricted by geographical boundaries.

Thus, the EU's regulations provide a comprehensive and unified understanding of self-employment, ensuring that those who

work for themselves receive improved social protection—the freedom to establish and conduct businesses across various regions of EU member states without any bureaucratic obstacles. Additionally, the EU seeks to foster a thriving and competitive self-employment industry within its member states by streamlining administrative processes.

### III. POLICY OF THE INTERNATIONAL LABOUR ORGANIZATION ON SELF-EMPLOYMENT AS NEW FORMS OF WORK AND LIFE

Freelancers often benefit from enhanced flexibility and a broader array of work prospects. However, individuals may also face challenges related to income stability and access to social protections. The International Labour Organization (ILO) does not explicitly regulate self-employment like it regulates traditional employment relationships. Instead, the ILO promotes decent work for all individuals, including those engaged in self-employment, through various conventions, recommendations, and initiatives.<sup>49</sup>

The International Labour Organization (ILO) addresses nonstandard employment, including temporary work, part-time work, and other forms of atypical employment, through various conventions, recommendations, and initiatives to promote decent work and protect workers' rights. The International Labour Organization (ILO) promotes that all workers, including self-employed individuals, have access to fair and productive employment, so-

48 Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018. [Online] available at: <<https://eur-lex.europa.eu/eli/reg/2018/1724>> [Accessed 10.05.2024].

49 Cook, S. and Rani, U., 2023. Platform work in developing economies: Can digitalisation drive structural transformation? International Labour Organisation. Future of work(ers) SCIS Working paper Number 63. [Online] available at: <<https://www.ilo.org/publications/platform-work-developing-economies-can-digitalisation-drive-structural>> [Accessed 10.05.2024].

cial protection, social dialogue and rights at work.

The International Labour Organization has established guidelines and regulations to preserve and safeguard the fundamental rights of self-employed individuals, as outlined in its official documents. These guidelines provide a comprehensive framework for protecting self-employees' rights, including their freedom of association, the right to fair and equal treatment, and the right to privacy. Emphasizes the importance of creating a capable environment for entrepreneurship and self-employment while protecting workers' rights and promoting social justice.<sup>50</sup>

For instance, The International Labour Organization's decent work agenda provides guidelines to member states for developing and implementing inclusive employment policies that address the needs of self-employed individuals, including access to training, financial support, and market opportunities. These policies promote entrepreneurship, reduce informal employment, and enhance social and economic inclusion.

Even more, the ILO advocates for extending social protection coverage to self-employed workers, including access to health care, maternity benefits, unemployment benefits, and pensions, facilitating access to social insurance schemes and designing innovative social protection mechanisms tailored to the needs of self-employed individuals.

While traditional labour standards do not cover self-employed individuals, the ILO encourages member states to ensure that self-employment arrangements respect fundamental principles and rights at work, including freedom of association, collective bargaining, non-discrimination, and decent working conditions.

Moreover, the ILO addresses the challenges of self-employed workers operating in the informal economy, including lack of legal recognition, limited access to social protection, and vulnerability to exploitation. The organisation promotes formalization initiatives that facilitate the transition of informal self-employment into formal employment, promoting decent work and reducing poverty.<sup>51</sup> Supports skills development and entrepreneurship training programs to enhance the capacity of self-employed individuals to succeed in their businesses, innovate, and create decent work opportunities for themselves and others. These programs often target vulnerable groups, such as youth, women, and migrants, to promote inclusive economic growth.

While the ILO does not directly regulate self-employment, its policies, programs and recommendations aim to create an enabling environment, that promotes decent work and social justice for all workers, including those engaged in self-employment.

50 The ILO's Decent Work Agenda – During the UN General Assembly in September 2015, decent work and the four pillars of the Decent Work Agenda – employment creation, social protection, rights at work, and social dialogue – became integral elements of the new 2030 Agenda for Sustainable Development. Goal 8 of the 2030 Agenda calls for the promotion of sustained, inclusive and sustainable economic growth, full and productive employment and decent work, and will be a key area of engagement for the ILO and its constituents. Furthermore, key aspects of decent work are widely embedded in the targets of many of the other 16 goals of the UN's new development vision. [Online] available at: <<https://www.ilo.org/topics/decent-work>> [Accessed 10.05.2024].

51 Ensuring better social protection for self-employed workers. 2020. International Labour Organization (ILO) Organization for Economic Co-operation and Development (OECD). [Online] available at: <<<https://www.ilo.org/media/282626/download>>> [Accessed 10.05.2024].

## CONCLUSION

Self-employment is a form of entrepreneurship where an individual operates and manages their business or trade without being ruled by any labour contract. It represents a type of work habit in which the individual is responsible for all aspects of the business operation. This form of work features autonomy, flexibility, and self-control over business operations.

This article defines and explains the legal status of self-employed individuals. Studies have shown that determining whether individuals are independent contractors or employees is one of the main challenges. Also, comprehensive social security systems are crucial for self-employed individuals, as they are already established under the European Directives to cover self-employed workers and create a minimal standard for their rights.

Self-employment is gaining popularity in the contemporary workplace, and the regulations that govern it, can profoundly affect the privileges, duties, and ultimate success of independent work.

Thus, the legislation in Georgia needs to differentiate the status of a self-employed person by establishing a legal definition recognizing self-employment in the Georgian context, whereby people can take control of their professional lives and contribute to the economy's growth.

It is a constitutional right to emphasize self-employment status at the legal stage as a definition that could identify and support individuals in pursuing professional autonomy and economic growth. The legal framework for self-employment in our country contains issues related to employment status classification, labour rights protection, and access to social security benefits.

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