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Economic and Monetary Affairs

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Internal Market and Consumer Protection

The Social Protection of Workers in the Platform Economy

Study for the EMPL Committee



DIRECTORATE GENERAL FOR INTERNAL POLICIES
POLICY DEPARTMENT A: ECONOMIC AND SCIENTIFIC POLICY

The Social Protection of Workers in the Platform Economy

STUDY

Abstract

This study investigates the social protection of workers in the platform economy at the request of the European Parliament's Employment and Social Affairs Committee. The report reviews literature and previous research on the platform economy with the aims of defining it and developing a typology for understanding its nature. It discusses the growth and drivers of the platform economy, as well as benefits and challenges for workers, reporting findings from 50 interviews conducted with expert stakeholders in eight European countries and from an original survey of 1,200 platform workers. It dissects the different normative layers that need to be considered when looking at the challenges of social protection of platform workers from a legal perspective. Finally, the report draws conclusions and makes recommendations concerning arrangements for the provision of social protection for workers in this growing sector of the economy.

This document was requested by the European Parliament's Committee on Employment and Social Affairs.

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LIST OF ABBREVIATIONS

- ACTA** L'associazione dei Freelance
- AMT** Amazon Mechanical Turk
- BITKOM** Bundesverband Informationswirtschaft, Telekommunikation und neue Medien (Federal Association for Information Technology, Telecommunications and New Media)
- BMAS** German Federal Ministry of Labour and Social Affairs
- CAC** Central Arbitration Committee
- CAE** Cooperatives D'Activites et D'Emplois
- CCOO** Comisiones Obreras
- CGIL** Confederazione Generale Italiana Lavoratori
- CJEU** Court of Justice of the European Union
- CMNC** Comisión nacional de los mercados y la competencia
- CSIL** Confederazione Italiana Sindacati Lavoratori
- CIPD** Chartered Institute of Personnel and Development
- DIY** Do It Yourself
- EU** European Union
- EC** European Commission
- ECJ** European Court of Justice
- ELLN** European Labour Law Network
- EP** European Parliament
- ESSEC** École Supérieure des Sciences Économiques et Commerciales
- ETUC** European Trades Union Congress
- ETUI** European Trades Union Institute

- EURES** European Job Mobility Portal
- FEDAE** Fédération des Auto-Entrepreneurs
 - ICT** Information and Communication Technology
 - ILO** International Labour Organisation
 - INPS** Istituto Nazionale della Previdenza Sociale (Italy)
 - ISTAT** Italian National Institute for Statistics
 - IWGB** Independent Workers Union of Great Britain
 - LCA** Latent Class Analysis
- MISSOC** Mutual Information System on Social Protection
- NESTA** National Endowment for Science Technology and the Arts
- OECD** Organisation for Economic Cooperation and Development
- OLS** Ordinary Least Squares
- ONS** Office for National Statistics (UK)
- PIPAME** Pôle Interministériel de Prospective et d'Anticipation des Mutations Economiques
 - PR** Public Relations
 - RSI** Régime Social des Indépendants
- TAW** Temporary Agency Work
- TEU** Treaty of the European Union
- TFEU** Treaty on the Functioning of the European Union
- UGT** Union General de Trabajadores de España
- UIL** Unione Italiana del Lavoro
- UK** United Kingdom
- UKCES** United Kingdom Commission on Employment and Skills

- UNICE** Unión de Confederaciones de la Industria y de los Empleadores de Europa
- URSSAF** Unions de Recouvrement des Cotisations de Sécurité Sociale et d'Allocations Familiales (France)
- USA** United States of America

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EXECUTIVE SUMMARY

The platform economy has grown rapidly over the last few years. **Platform economy employment has certainly increased**, although exact figures on the scale of employment remain elusive and **estimates of the workforce at EU level vary considerably**. The social protection of workers is enshrined in the Treaty of the EU. However, the extent of social protection varies across Member States, and workers in different forms of work receive varying degrees of social protection.

The rise of the “collaborative”, “platform” or “gig” economy has led to a renewed focus on the question of social protection for workers. This can be seen in the ‘Opinion and Resolution on the European Agenda for the Collaborative Economy’, published in March and June 2017 by the European Parliament, which highlights the growth of the collaborative economy, and the importance of ensuring protection of workers engaged in this sector.¹

The rise of the so-called collaborative, platform, gig, or sharing economy does raise important, new challenges for social protection, for policy makers, employers, and labour representatives. Challenges in understanding these issues are compounded by the lack of clarity with regard to the size and composition of the workforce.

This report draws on findings of research into the social protection of workers in the platform economy, conducted by the Centre for Employment Relations Innovation and Change (CERIC), at the University of Leeds.² The analysis reports findings based on background research, legal analysis, the conduct **of 50 interviews with expert stakeholders** in the platform economy across eight EU countries (**Bulgaria, Denmark, France, Germany, Italy, Poland, Spain, UK**), as well as an original survey of 1,200 platform economy workers.

The **aim** of this report is to examine the **evolution** of the platform economy in the EU and its **impact on working conditions and social protection**. The report concludes that **offering greater social protection to platform workers is desirable**. It offers specific recommendations on extending social protection for platform economy workers. Throughout, the report also offers a comparison between developments in the EU and the United States (US), to inform the ongoing work and interests of the Employment and Social Affairs Committee’s Working Group on the digitalisation of work.

A first key finding from the study relates to the **size of the platform economy**. Research to-date been held back by two problems. The **first problem is definitional**. Different definitions lead to different conclusions about size, and about the most important issues for policy-makers to address. The second research problem is **how to access suitable data** for making an accurate assessment of the size and growth of the platform economy. Using the very broadest definitions, estimates for the USA and EU suggest that around **one third** of the adult population has participated at some time in the online platform or “on-demand” economy. Focussing more narrowly on paid work mediated by online platforms, it seems likely that **between 1 per cent and 5 per cent** of the adult population has earned some income at some time in this way.

Secondly, the report proposes **two new typologies** for understanding the platform economy. The first, presented in Chapter 2 of the report, addresses two key issues in the provision of social protections for platform workers. These are, first, the **type of labour market** in which work is carried out (local or global) and, second, the **degree of control** that platforms exercise over the conduct of work (and, conversely, the degree to which

¹ European Parliament 2017a; European Parliament 2017b.

² The Centre for Employment Relations Innovation and Change is a leading Research Centre in work and employment, based at the University of Leeds, UK. Further details of the Centre can be found at: <https://business.leeds.ac.uk/research-and-innovation/research-centres/ceric/>.

workers exercise autonomous control over their work). The second typology (contained in Chapter 5, Policy Recommendations) summarises our finding that **the greater the level of financial dependence** on platform work, the **lower the access that workers have to social protections**.

A third key finding relates to the perception of stakeholders towards the platform, gig, or collaborative economy. Interview findings revealed that respondents used the terms “platform economy”, “gig economy” and “sharing economy” in different ways, and in some cases these views signalled an indication of the positive or negative nature of these forms of working for those that undertook them. **Intermediaries and platforms** were seen as **key “disruptors”** in driving the platform economy, again, a term that was used in both **positive and negative** senses by respondents, depending on the perceived effects on workers, employers and the economy.

There was widespread recognition from our interview respondents that there were some opportunities for workers that had been created by the rise of the platform economy. The **downsides** of platform economy working were emphasised by employer bodies and trade unions interviewed. **Security of job and income** were seen to be key problems for those working in the platform economy, as was **underemployment**. There were also challenges in some countries for workers who fell in the **grey area between worker status and self-employment** who could end up with none of the benefits of self-employment, in terms of control, and all the problems of income insecurity. Existing social protection of workers in the platform economy varied markedly.

Fourthly, our research provides robust, new survey evidence on the experience of work in the platform economy, and the extent of social protections received by workers. An original **survey** was developed and distributed to **1,200 platform workers** across four established online platforms: Amazon Mechanical Turk (AMT), Clickworker; CrowdFlower; and Microworkers. Average working hours across the platforms stood at 23 hours per week, with the median hourly pay six US dollars. Pay levels across the platforms were significantly lower than national minimum wage rates across European countries and the U.S., ranging from a 54.1 per cent gap in **France** to 3.4 per cent in the **United States**.

The survey also revealed that relatively high levels of job satisfaction and emotional wellbeing amongst platform workers were offset by **lack of task autonomy** and **dissatisfaction with career prospects, pay levels and job security**. Workers’ dissatisfaction with job security was considerably higher than the representative average figure across European labour markets.

Based on the survey, the report develops a new categorisation of three clusters of platform economy workers: **Moderate Beneficiaries, Random Surfers, and Platform-Dependent Workers**. The categories were derived from the degree of worker dependence on the platform economy for income and the quantity of work, notably in terms of whether work was conducted as an alternative or alongside more traditional forms of employment

Statistical analysis found that approximately a quarter (25 per cent) of the labour market in the platform economy was comprised of **“Platform Dependent Workers”**; those workers who derived a **larger share of their personal income** from micro-tasking without other paid jobs. These workers were significantly worse off compared to those who were not reliant on the platform economy, earning on average between 43 and 62 per cent less, regardless of between country differences

Access to social protection schemes, with the exception of healthcare insurance, **was very low for platform economy workers**. Up to 70 per cent of workers in the platform economy reported that they could not access basic schemes like pregnancy, childcare and

housing benefits. Such an effect was especially pronounced among Platform Dependent Workers.

The key legal issue affecting the provision (or otherwise) of social protections for workers in the platform economy is a longstanding problem that also affects “atypical” workers more generally; namely, that they are more likely to be categorised as self-employed contractors rather than employees or workers. This is evident at both the national level and EU level. The **definition of worker** within these provisions is likely to **exclude** those working in the platform economy, and thereby reduces significantly the social and employment protections to which they are entitled. Furthermore, where platform workers are theoretically entitled to forms of social protection in individual countries, in many cases, relatively low levels of hours or income mean that in practice they may not reach the necessary income or hours thresholds to access social protection.

However, it is extremely difficult to make general statements in this area because work in the platform economy can involve a very broad range of activities, involving diverse configurations of work relationship, with each contractual situation needing to be looked at on its own merits.

Conclusions

- The platform economy is already a significant part of economic life within the EU, and it is likely to grow significantly in the foreseeable future.
- Employment within the platform economy in the EU is so far relatively marginal in absolute terms. However, such employment is expected to grow significantly and rapidly over the next few years.
- Thus, while regulation concerning social protections for platform workers might not be considered urgent at the present time, it is likely to become more pressing in the not too distant future. One of our main conclusions is, accordingly, the need to **address policy issues before they become urgent**. Policy should be anticipatory rather than reactive.
- Technology, though central to the evolution of the platform economy, is not its only, or even its main, driver.
- Different legal and institutional arrangements across individual Member States have influenced, and continue to influence, the way in which the platform economy has developed.
- **There is an important role for the state** in ensuring optimal outcomes, whatever that may entail, to **ensure that platform economy workers are not excluded from basic social protections**. A number of potentially viable examples of good practice within Member States may form the basis of wider transposition to the EU level.
- The evidence on participation in platform work confirms its largely **intermittent pattern**, and evidence from expert interviews indicates a number of problems faced by workers. Furthermore, the nature of platform work creates particular **challenges for social protection**.
- Our original survey demonstrates some of the real challenges of arranging and ensuring social protection for platform workers, the majority of whom undertake this work in addition to another job. Even so, a quarter of respondents gain more than half their personal income via platform work.
- There is a strong **association between platform work and precarity** more broadly. A key concern is that the more reliant a worker becomes on the platform

economy for their personal income, the less likely they are to have a range of basic social protections. Only a small proportion of platform workers were found to pay into a pension. Those who are more financially dependent on platform work appeared to have greater difficulty in meeting monthly bills. Many types of social protection schemes (particularly those covering pregnancy/childcare, caring responsibilities and housing benefits) were not currently accessed by a majority of platform workers. Furthermore, when it is available, **social protection is typically derived from the fact that workers have another job outside the platform economy.**

- Our new typology, presented in Chapter 5, Policy Recommendations, gives an overview of the relationship between the extent to which workers are dependent on platform work – expressed as the proportion of income derived from platform work – set against access to social protections (high, medium or low). This typology can be used to map dependence on platform work and access to social protections – **a descriptive, analytical tool.**
- This typology can also be viewed as a framework for establishing how social protection for platform workers (in specific contexts, Member States, or working for specific platforms) can be increased. If, as we suggest in our report, a goal is to **increase social protection for platform workers**, then, in typological terms, how can specific groups of workers be moved across the typology from columns on the right-hand side, where protection is low, towards the left-hand columns, where protections are higher? **The actions required are likely to vary considerably from Member State to Member State.**
- Good policy requires good evidence. This research has demonstrated the very considerable difficulties involved in estimating both the size of the platform economy, the scale of participation in paid work within it, and the social protection enjoyed, or not, by those in the platform economy.

Recommendations

- Policy development should seek to foster the benefits and at the same time reduce the costs of employment opportunities in the platform economy.
- There is a strong case for legal reform. The exclusion of platform workers from a range of social protections is closely linked to the growth in the numbers of people excluded from legal classification as employees (or workers).
- Therefore, an important route to wider coverage of social protections is to address the framework of legal classifications surrounding the employment relationship, as well as novel variations upon traditional forms.
- **We recommend that the EU takes steps towards a review of existing legal frameworks**, so as to recognise the extent of new social practices that have become established in recent years, in order to redress exclusions from social protections.
- The general approach should be to rectify problems created by the development of legal frameworks that work towards the exclusion of particular sections of employment, towards a **framework of actions** that ensure the inclusion of all those who need social protections.
- It may also be the case that existing instruments at EU level can be extended to encompass more explicitly those working in the platform economy. In the long term, this is likely to mean developing legal approaches that can encompass greater variety of work relations.

- More immediately, some more straightforward solutions should be sought to: **reverse the burden of proof in determining employee status**, so that it is incumbent upon employing entities to prove that persons carrying out paid work *are not* employees; **ensure that enforcement of legal employment status is conducted by an independent authority** (as is already the case in some Member States), rather than by piecemeal rulings from the courts; **and provide full and easily accessible information to all workers**, including those engaged in platform-mediated work, concerning their legal rights.
- Good policy requires good evidence. Steps should be taken at both EU and Member State levels to ensure that national statistical agencies develop appropriate measures of the platform economy.
- Measures should be put in place to ensure that labour platform companies supply regulatory authorities with appropriate and sufficient information to inform policy development around social protection in this increasingly important area.

1. INTRODUCTION

Social protection of workers has a central place in the European Union. Social protection is enshrined in Article 3 of the Treaty of the European Union (TEU), which commits the EU to “promote social justice and protection”,³ and Article 9 of the Treaty on the Functioning of the European Union (TFEU), which **commits the EU to “the guarantee of adequate social protection”**.⁴ While these treaties do not specify what form such provisions should take, Member States have developed a range of social protection schemes, with varying entitlements, which are considered in more detail below. The extent to which social protection schemes extend to workers employed on “new” and emerging types of employment contracts, is the subject of much debate. Provision of social protection schemes vary across Member States *and* across different forms of working arrangements. The rise of the “collaborative”, “platform” or “gig” economy has led to a **renewed focus on the question of social protection** for such workers. In March and June 2017, the European Parliament published an Opinion, followed by a Resolution on the European Agenda for the Collaborative Economy, which highlighted the growth of the collaborative economy, and the importance of ensuring protection of workers engaged in this sector.⁵ It is the issue of social protection for workers operating in such economic circumstances that is the specific focus of this report.

Social protection varies somewhat across different Member States⁶ but, as a broad comparative framework, social protections can be said to cover the following areas:⁷

- healthcare (costs)
- sickness (benefits paid during sick leave)
- maternity (costs and benefits)
- disability (benefits)
- old age (pension benefits)
- survivors (benefits)
- employment injuries/accidents at work and occupational diseases (costs)
- family (benefits)
- unemployment (benefits)
- guaranteed minimum resources (benefits)
- long-term care (costs)

Across the EU, two broad models of social protection can be identified. The first, “Bismarckian” model is based on a **social insurance approach**, and is intended to “maintain *workers’* income in case of social risks”.⁸ The second, “Beveridgean” model aims to provide “adequate, uniform income for all *citizens* in the case of certain risks”, and is intended to be **universal**.⁹ In practice, social protection systems commonly combine aspects of both models into a hybrid version, whereby some protections are universal while others are linked to employment status.

³ European Union 2008: 17.

⁴ European Union 2012: 53.

⁵ European Parliament 2017a; European Parliament 2017b.

⁶ See MISSOC 2017.

⁷ This framework is taken from the EU MISSOC (Mutual Information System on Social Protection) database, as summarised in Eurofound 2017a: 47. Other sources give slightly different lists.

⁸ Eurofound 2017a: 47, emphasis added.

⁹ Ibid: 47, emphasis added.

Attention has become focussed on social protections recently due to the widespread perception of growing gaps in coverage, associated with shifts away from the standard model of employment and the rise of insecure forms of work – problems that have been recognised by the European Commission.¹⁰ Work in the platform economy can be seen as a significant and growing example of these wider problems.¹¹ The European Parliament has recognised that the platform economy creates new opportunities and new, flexible forms of work, particularly for the self-employed, but that these can result in precarities and gaps in protection.¹² This report has been commissioned in order to better understand the **nature and extent of those gaps**, and to make **recommendations** for addressing them, as a contribution towards the development of policy in this area.

The platform economy – alternatively termed “sharing”, “collaborative” or “gig” economy – has grown rapidly over the last few years. It is estimated that the key components of the platform economy **produced revenues of nearly €4bn and facilitated €28bn of transactions** within Europe in 2015.¹³ Key sectors include transportation, accommodation, household services, professional services and finance.¹⁴ Employment in these areas has certainly increased, although exact figures remain elusive, and estimates vary considerably. It seems likely, though, that somewhere between one to five per cent of working-age adults in the EU have, at some time, engaged in paid work mediated via an online platform,¹⁵ although figures for individual Member States are likely to vary, with some having higher levels.¹⁶ Clearly, **more research is needed to provide firm estimates** of the workforce in different segments of this developing economy.

Opportunities for business and workers have been facilitated by ICT developments, and the availability of mobile devices.¹⁷ Yet, while many have heralded potentially positive consequences for workers, these are far from certain. Particular interest has centred on the **legal status of workers that gain employment via platforms**, with a number of ongoing cases highlighting the lack of clarity about whether such workers are employed or self-employed. As recently as November, 2017, a **UK** employment appeals tribunal ruled that Uber workers should be treated as workers rather than self-employed independent contractors;¹⁸ other cases are ongoing across Europe and the USA.¹⁹ Beyond their contract status, there are important questions about the experience of employment and access to rights and protection for workers in the platform economy. The rise of the platform economy creates **opportunities for workers** across Europe, operating under “new” and emerging contract forms, but it **also poses challenges for social protection** and working conditions of those that undertake it. This mix of opportunities and challenges have been recognised by the European Parliament, most recently in the Resolution on a European Agenda for the Collaborative Economy,²⁰ yet the problems of developing suitable and appropriate policy remain unresolved.

¹⁰ European Commission 2017d, 2017e.

¹¹ For previous research investigating social protections and new forms of employment, see Eichhorst et al. 2013; Eurofound 2015b, 2017; Matsaganis et al. 2016; Spasova et al. 2017. For an overview of developing EU policy consideration, see European Commission 2017c.

¹² European Parliament 2017b: para 37.

¹³ PwC 2016: 2.

¹⁴ PWC 2016: 6.

¹⁵ See discussion in Chapter 3, below.

¹⁶ Huws et al. 2016: 1-10.

¹⁷ European Parliament 2017b: Para 2.

¹⁸ Financial Times 2017.

¹⁹ Cherry and Aloisi 2016: Chapter 1.

²⁰ European Parliament 2017b.

Although many workers in the platform economy state that their motivation exceeds pure economics, reflecting the spirit of early open source and peer-to-peer production, **a core policy challenge comes from the expansion of these forms of work**. Some have argued that work in corporations should be reorganised using the platform model, so that that people can develop their full potential and creativity. However, at the same time, it is important that new forms of exploitation are prevented, and that adequate protection of those undertaking these forms of work is ensured.

The **regulation and social protection** of those engaged in platform working is **at different stages in** different Member States, depending on, and taking into account, how in general employment, self-employment and other forms of work are regulated and protected nationally. There is also considerable unevenness concerning how, and to what extent, existing rights and protections are enforced.²¹

Regulation and social protection of platform work also **depends on the strength of labour organisation** in the offline economy, the extent of this form of work and the evaluation by labour unions and policy-makers about the risks of the platform economy. Some attempts to mobilise platform workers have been seen, using petitions and campaigns, Codes of Conduct, a FairCrowdWork label, a levy for qualification of crowdworkers for buyers, minimum pay for services on platforms, integrated taxation systems, and in some cases co-determination rights that regulate which platforms can be used for outsourcing labour, and more far-reaching reforms of both extending collective agreements to wider categories of workers than employees and social protection systems becoming more inclusive.²²

Social protection of platform workers remains varied, however, and creates challenges for policy makers, employers, and labour representatives alike. Challenges in understanding these issues are compounded by the **lack of detailed data on workforce composition**. For instance, it remains unclear whether and to what extent spells of work in online labour markets improve or hamper the likelihood of transition to standard secure employment – which, in turn, renders any proposals for enhancing social protection of workers uncertain.

Bearing in mind these considerations, the **aim of this report** is to describe the **evolution of the platform economy** in the EU and the **impact of the platform economy** on working conditions and **social protection**. The report also offers a comparison between the situation in the EU and the US.

The report draws on findings of background literature, documentary, interview and survey research conducted by the Centre for Employment Relations Innovation and Change (CERIC), at the University of Leeds. An analysis of the size and scope of the platform economy is offered, as well as an analysis of different conceptualisations of platform work. The report also examines the legal issues pertaining to platform work in the EU and the US. **We report on qualitative analysis from 50 interviews** with stakeholders with an interest/expertise in the platform economy across eight EU countries (**Bulgaria, Denmark, France, Germany, Italy, Poland, Spain and the UK**). Portraits of the labour market and the nature of the platform economy in each of the eight countries can be found in Annexe 1. The methodology used for the interviews, a list of respondents and the interview themes can be found in Annexes 2-4.

The report also analyses an **original survey of platform economy workers**, conducted between February and April 2017. The survey elicited 1,200 responses from workers on four online platforms: Amazon Mechanical Turk (AMT), Clickworker, CrowdFlower and Microworkers. More detail on the survey methodology can be found in Annexe 2.

²¹ See European Parliament 2017b: para 40.

²² Drahokoupil and Fabo 2016: 3.

The remainder of the report is structured as follows. **Chapter 2** looks at definitions and typologies of the platform economy, **drawing on existing literature and our interview data**, culminating in the presentation of a new typology of platform work. **Chapter 3** looks at the nature of work in the platform economy, providing estimates of its scale, the benefits and risks of working in the platform economy, and the experience of work, including, crucially the experience of social protection. **Here, we draw on our interview and survey data.** The survey findings explore the experience of work, income and pay levels for platform economy workers, job quality (with comparisons made to other large scale surveys) and social protection. The chapter develops a new categorisation of three clusters of workers based on their dependence on platform working: Moderate Beneficiaries, Random Surfers and Platform Dependent Workers. Social protection levels vary markedly for workers in each of these clusters. **Chapter 4** offers a **legal analysis** of the challenges of social protection for platform economy workers. **Chapter 5** sets out **conclusions and recommendations**. Annexe 1 provides more detailed portraits of the labour market and of platform economy working in each of the eight countries studied.

2. THE PLATFORM ECONOMY: DEFINITIONS AND TYPOLOGY

KEY FINDINGS

- Different definitions of the “collaborative”, “sharing”, “gig”, or “platform” economy lead to different conclusions about its size, and about the most important issues for policy-makers to address.
- Most interviewees found the term “collaborative economy” problematic. Consequently, the terms “platform economy” and “platform work” were preferred in this study.
- There is a severe shortage of reliable data on the size and growth of the platform economy.
- Nevertheless, platform work is presently a small but significant sector of employment that is widely expected to grow in the future.
- The role of platforms themselves is central to understanding platform work, which cannot be accurately characterised as simply a series of online labour markets.
- Discussions over definitions of the platform economy in the USA and EU were closely aligned, with the distinction between capital-intensive and labour-intensive platforms central.
- There are considerable gaps in social protection for platform workers, despite significant variations across Member States.
- The classification of platform workers as self-employed means that many are excluded from protections that are available to other workers.
- Typologies of labour platforms and social protections show the full variety of platform work and the challenges involved in extending protections to include platform workers.

The first challenge facing research on the platform economy is definitional. As many have noted, a large number of different terms have been used to refer to the range of ways in which people can and do generate income from online activities. Commonly used terms include the “collaborative economy”, “gig economy”, “sharing economy”, “crowd work”, “platform economy” or “platform capitalism” – but there are many more.²³ To complicate matters further, these terms are often poorly defined. Authors often use similar terms to refer to quite different online (and offline) activities, and different terms to describe essentially similar activities.²⁴ Furthermore, **researchers have grouped together** different selections of variously-defined terms **into a considerable variety of typologies**, adding further complexity. Not surprisingly, then, varied definitions and typologies present significant problems for researchers in this area.

This chapter therefore presents a discussion of various definitions of the online economy and argues for adopting neutral terminology; in particular, preferring the term “platform economy”. We will subsequently discuss the importance of understanding **platforms as active shapers of the online economy**, rather than as passive facilitators. Finally, we

²³ Huws 2015: 1.

²⁴ Botsman 2013.

present a new typology which demonstrates the **variety of online platforms** currently involved in mediating paid work.

2.1. Definitions of the platform and collaborative economy

According to the *Communication on the European Agenda for the Collaborative Economy*, from the European Commission (EC), the collaborative economy consists of "business models where activities are facilitated by online platforms that create an open marketplace for the temporary usage of goods or services often provided by private individuals".²⁵ This definition is plainly capable of encompassing a very wide range of activities. Research that adopts this type of broad definition tends to include a highly varied – indeed, disparate – range of economic activities. For instance, one study²⁶ included all of the following:

- **Peer-to-peer accommodation:** households sharing access to unused space in their home or renting out a holiday home to travellers
- **Peer-to-peer transportation:** individuals sharing a ride, car or parking space with others
- **On-demand household services:** freelancer marketplaces enabling households to access on-demand support with household tasks such as food delivery and DIY
- **On-demand professional services:** freelancer marketplaces enabling businesses to access on-demand support with skills such as administration, consultancy and accountancy
- **Collaborative finance:** individuals and businesses who invest, lend and borrow directly between each other, such as crowd-funding and peer-to-peer lending.

As the authors of the EC *Communication* note, this broad definition – under the title of the "collaborative economy" - is often used interchangeably with "sharing economy".²⁷ Other terms that have been used in a similarly broad sense include "platform economy",²⁸ "gig economy"²⁹ and "on-demand"³⁰ economy. Whichever terminology is used, however, broad brush definitions tend to encompass such varied types of activity as to obscure understanding of the activities themselves and the regulatory challenges they may pose. For instance, renting out a spare room, providing expert legal or medical advice, financing new businesses, and delivering pizza pose significantly different questions for policy-makers; yet, all are carried out within the broad "collaborative economy" definition. Consequently, "such a broad definition gives us very little to work with in terms of understanding the impact of this new economy on society".³¹ Moreover, if the variety of ways that people have devised to make money via online activity is already very great, **the rapid evolution of technology** combined with human inventiveness will only add to this variety in the future. Not surprisingly, then, researchers have tried to define more specifically the range of activities taking place within the broad spread of the collaborative economy; these approaches are discussed below.³²

²⁵ European Commission 2016a: 3.

²⁶ PWC 2016: 5.

²⁷ For instance, Codagnone et al. 2016; see also Petropoulos 2016.

²⁸ Farrell and Greig 2016a.

²⁹ Manyika et al. 2016.

³⁰ Smith 2016.

³¹ Drahokoupil and Fabo 2016: 10.

³² For a defence of the broad definition approach, see European Commission 2016a: 2.

2.1.1. Normative aspects of definitions

Before moving on to discuss alternative approaches to conceptualising online economic activity, it is worth pausing to reflect upon **the unavoidable normative aspect of many definitions of online activity**. That is, the language we use influences the way we think about online economic activity, and consequently influences priorities for policy-making. Notably, terms such as **“collaborative” and “sharing” carry very clear positive connotations**, while **“gig economy” typically carries significantly more negative overtones**.

Often, the terminology used indicates broadly supportive or broadly critical approaches to these new forms of economic activity and work organisation.

Among supporters of the “platform economy”, for instance, the term “trust” is commonly used to describe a supposed benefit engendered by platform intermediation, which is seen as promoting trusting relations between strangers, particularly through the use of user-rating systems to establish “online reputations”.³³ Claims for the spread of trust are often linked to notions of “sharing”.³⁴ In reality, however, trust is not a unique feature of the platform economy; trust is fundamental to all market relations. Furthermore, from the point of view of platform workers, the **importance of online reputations** – most of which cannot be transferred from one platform to another – in giving access to more regular and better-paid jobs, leads to them being trapped in a relationship of dependence on that platform.³⁵ Moreover, as critics have shown, these same online reputation systems are often subject to the same biases that exist in the offline world, resulting in clear **discrimination**; for instance, on the grounds of race or gender.³⁶ Thus, even the seemingly obvious benefits of “trust” may, in the world of online platform work, conceal clear disadvantages for some of those involved.

Not surprisingly, then, our interviewees often expressed scepticism about the positive overtones associated with the term “collaborative” to describe these new forms of online economic activity. One told us:

“There’s not much collaborative about Uber — it’s a completely red-in-tooth-and-claw capitalist firm. Even Airbnb is transforming itself into something completely different from how it looked at the start” (Professional association representative, UK).

Furthermore, many of our interviewees highlighted policy concerns relating to more negative aspects of work in the online economy; often seen as replicating problems encountered in other forms of insecure employment.

Our evidence suggests that, for workers, the online economy brings both advantages and disadvantages.³⁷ Consequently, there are distinct advantages in using neutral terminology for the purposes of analysis and policy-making. The advantages of such an approach were recognised by the European Parliament’s Committee on Employment and Social Affairs when it argued that the term **platform economy** provides the most **“objective”** description of these new developments.³⁸ This approach has not yet, however, attained common parlance by the plenary of the European Parliament, which, in June 2017, adopted a Resolution couched almost entirely in terms of the “collaborative economy”.³⁹ Nevertheless, for the

³³ Codagnone and Martens 2016: 22; European Parliament 2017a: 9.

³⁴ NESTA 2014: 5.

³⁵ Schörpf, et al. 2017.

³⁶ Rosenblat et al. 2017: 2.

³⁷ See European Parliament 2017b: para 37.

³⁸ European Parliament 2017a: Para 3.

³⁹ European Parliament 2017b, passim.

reasons outlined above, **in this study** the terms "**platform economy**" and "**platform work**" will be adopted for the most part (see further discussion below). A key concern of our expert interviews, however, was to uncover how key actors understood the developing online working environment and what this meant in definitional terms: what, in other words, did experts perceive as the distinctive differences between the collaborative and platform economies? Accordingly, in what follows we start from a consideration of views on the collaborative economy, before focusing our attentions specifically on the platform economy and, significantly, platform work.

Not surprisingly, given the above discussion, our interviewees expressed a **wide range of views** about how the **collaborative economy** can – and should – be defined. Variation in approaches to this issue were not haphazard or accidental. For instance, differences often emerged between representatives of platforms or employers, and representatives of workers. Differences were also evident between countries, reflecting national debates and discourses, or differences in institutional and regulatory arrangements, or legal traditions. For example, debates in countries with a stronger tradition of **co-operative business models** often exhibited a different character from countries with a more free-market approach to economic development and regulation. Furthermore, as the research progressed, it became increasingly clear that many participants had in reality identified similar features in the development of the online economy, and common challenges for policy-makers, despite differences in the language used to express their views.

From “no definition possible”...

A substantial minority of interviewees were unable to offer any definition at all of the collaborative economy. In a few cases, this was because participants did not seem to have given the matter very much thought. More common, though, was an **unwillingness to offer a definition** in the context of known and well understood difficulties. Indeed, explicit concern with definitional difficulties was very common among expert interviewees. For example, one of our researchers reported that an interviewee “makes quite a despairing face when I ask him to define the collaborative economy” (Interview with collaborative economy researcher, France). This evidence of uncertainty – even anguish – strongly supports the view outlined above concerning the real and serious problems posed by terminological difficulties in this area.

...via “broad definitions are useless”...

Other participants drew a similar distinction, but used it to reject the term “collaborative economy” altogether – at least, as a workable analytical category:

“Collaborative economy’ is a fairly useless term because you end up putting together all sorts of very different activities — peer-to-peer lending, lift-sharing, renting a room, buying and selling online, etc. It’s just a mish-mash of economic activity which doesn’t help very much, especially if you’re looking at the world of work” (Professional association representative, UK).

This rejection of the term is a normative judgement on the nature of work being undertaken in the collaborative economy, and implies a difference between the rhetoric of collaborative economy working and the realities, along a number of dimensions.

...to differentiating between commercial and non-commercial platforms

It was notable that not one of our participants used the very broad(est) definitions of the collaborative economy outlined above (Section 2.1). An important underlying theme that emerged across the interviews was a **basic distinction between non-commercial activities conducted via online platforms** – which were commonly identified as collaborative or “sharing” – **and those designed to make profits**, whether for

entrepreneurial individuals or for capitalist corporations. For many, the notion of a “collaborative” economy was strongly associated with “sharing”. As participant explained:

“the whole term sharing economy or collaborative economy should be reserved for non-profit activities. Otherwise it is misleading, simply.” (Expert interview, Denmark)

More explicitly, one participant defined the collaborative economy by sharply contrasting it with for-profit activities:

“I accept it [the collaborative economy] as sharing economy - providing free resources ... In my opinion, this is the basis of the unwritten rule of sharing economy: that the owners of resources share these resources, not seeking financial benefits from this and seek only the costs covering the existence and maintenance of these resources” (founder of travel-sharing platform, Bulgaria).

Another respondent saw this genuinely sharing, collaborative activity as somewhat **marginal to the growth of online economic activity**. Asked to define the collaborative economy, this expert said:

“I see it as an economic platform mechanism which is not primarily transactional or commercial, but is to do with the sharing of resources. I think that's pretty small and it hasn't grown in anything like the way people thought it might ... It turns out it's quite hard to build business models, and it's quite hard to scale up and hard to sustain” (Policy expert, UK).

Thus, one useable distinction that emerged from our interviews – although at times expressed using differing terminology – concerned **perceived differences between non-profit and for-profit activities**.

The important point here is the terminology in use can be, and often is, applied in different ways to denote particular working practices and work organisation, to refer to business models, and/or to describe different contractual arrangements.⁴⁰ This is ample evidence, then, of the extreme terminological uncertainty in this area.

Our findings also suggest that moves towards resolving these difficulties would be significantly beneficial. Fortunately, our interview evidence also suggested some potentially useful directions by which workable definitions might be arrived at.

2.1.2. Defining the “gig economy”

The **gig economy**, in contrast, was seen by many respondents as a means of dividing up forms of work and jobs – many of which were already existing – with the aim of reducing or removing transactions costs:

“It is the capacity to break down jobs into small parts and to remove the frictional costs involved in connecting the supply of labour and the demand for labour – obviously, that's huge and growing. And it's going to grow much, much bigger” (Policy Expert, UK)

For another respondent, referring to the gig economy in Canada and the US, gig working, involving multiple clients, facilitated through online platforms, was seen to be synonymous with freelancing. By this definition, some arrangements classified as gig working were clearly closer to, and better characterised as, an employment relationship:

⁴⁰ The specifics of contractual form are dealt with in Chapter 4.

"With Uber, you have one client. At the very least, [working for] Uber is a "dependent contractor". It doesn't really fit within the gig economy, because the gig economy is about multiple clients." (Collaborative economy expert, Canada)

Gig economy work was seen by many to comprise often poorly paid precarious jobs organized via internet platforms and apps, with little that was collaborative about it, and typically with a profit-centred motive around it. Indeed, some terms associated with the gig economy (for example the use of the term "Uberisation" in **France**) had distinctly pejorative connotations. For many of those interviewed, the collaborative economy was something much more diverse than these precarious arrangements, with respondents keen to highlight more equitable and protective models. Terms such as the **"platform economy"** were seen as **more cross-cutting and generic**, and perhaps better encompassing the span of activity involved.

2.1.3. Differentiating the platform economy from traditional arrangements

Others viewed the platform economy in relation to previous, long-established working arrangements. In some cases, the platform economy and gig working were simply regarded as an extension of these traditional arrangements. "New" models could be seen, in part at least, as an attempt to avoid regulation associated with these traditional working forms.

"Gig economy, platform work, is largely a subset of self-employment. Some of the gig economy is pure self-employment, where people have a lot of control over their work. But, also, there's clearly quite a bit of it that occupies this very grey area between worker and self-employed. And it's expanding that middle group. The key questions, here, are about the degree of control that the platforms exert over individuals" (Professional association representative, UK).

Box 1: Comparing the US and the EU: definitions of the platform economy

Discussions over definitions of the platform economy in the USA and EU are closely aligned, with the distinction between capital-intensive and labour-intensive platforms central across a range of literature (see 2.3.1, below). In the USA, empirical research and policy discussion has been dominated by two platforms in particular: Uber and Amazon Mechanical Turk (AMT). In the USA, Uber presents policy dilemmas familiar from a European perspective; namely, the potential for flexible, low-cost transport, and flexible earning opportunities, versus disruption to existing transport systems, numerous allegations of questionable employment practices, and serious questions over seemingly deliberate attempts to mislead regulatory authorities. AMT, which is almost entirely absent from EU markets, mediates paid online work, performing short "micro-tasks" and "click-work". Relatively straightforward to study, via the simple means of posting a survey as a paid task to be completed by thousands of "Turkers", AMT has become something of an archetype of paid work in the online economy – characterised by very low pay, often insufficient availability of work, and allegations of pay-withholding ("wage theft") and other unfair practices.

2.2. The role of platforms

The role of platforms is important in understanding the operation of the online economy, but accounts vary somewhat in the priority they are given. Some accounts, especially those from economists, conceptualise the platform economy as a series of **markets** for the provision of services.⁴¹ From this perspective, for example, Uber is a marketplace, matching people who want to get from A to B and who are willing to pay someone to drive them, with people who

⁴¹ Allen 2015; Codagnone et al. 2016; Codagnone and Martens 2016.

have an under-used car and who are willing to drive someone from one location to another, and to receive a payment for doing so. There is **a tendency**, however, for accounts that emphasise the market aspect of the online economy to **downplay the role of platforms** in actively shaping that market; indeed, in some market-focussed accounts platforms scarcely feature at all. While there are **undeniable market-like aspects to the activities of platforms** such as *Amazon Mechanical Turk* (AMT) and *Upwork* – where, potentially, many thousands of people seeking to earn money bid to carry out paid tasks posted by thousands of people who want work done and are willing to pay for it – other platforms look very much like **businesses designed to make money by offering a specific service**. For instance, Uber provides a taxi service, Handy provides cleaning services, and MyHammer provides building trade services. Furthermore, as research for the US Congress noted, rather than simply mediating transactions, platforms exercise considerable control over them: typically, platforms collect commission on each transaction, and therefore "have a clear stake in attracting and retaining clients", which influences their behaviour in a number of ways; platforms also control the brand, and police this (to varying degrees) by operating mechanisms to select (and deselect) individuals operating under their brand; and platforms "control the client-provider relationship", commonly through the use of lengthy and detailed contracts prohibiting practices such as direct contact between clients and workers.⁴² Overall, "the platforms regulate the market".⁴³

There is a further issue that often clouds understanding of the platform economy; namely, the role of digitisation in the wider economy. It is sometimes assumed that the spread of digital technology is part of a wider shift in the global economy, whereby the site of profit production is shifting away from labour activities towards capital investment. Yet, despite much media hype around developments in computer technology, robotics, and artificial intelligence, the evidence suggests that the spread of digital technology is less significant than often assumed, and, in terms of the generation of profit, it has so far had only a marginal effect.⁴⁴ Srnicek argues that whilst there are some notable examples of platforms that have enjoyed economic success, the sector as a whole faces considerable challenges, due to the tensions between the push to expand the data extraction capabilities of platforms on the one hand, and the dominant business logic of keeping platforms "lean".⁴⁵ Deriving a competitive advantage also becomes more and more challenging when the sector is built upon notions of collaboration and sharing.⁴⁶ In reality, platform companies do bring some elements of a new business model and new ways of organising work, and as such present real challenges for policy makers. Platforms do not, however, represent a fundamental change from familiar patterns of corporate activity within a capitalist economy.⁴⁷

2.2.1. The platform as intermediary, or providing the underlying service?

To add yet further complexity, yet another distinction made by some respondents related to the **involvement of the platform (or intermediary) in contractual arrangements**. This distinction was becoming particularly important in the legal cases and judgments that were being made in individual countries, and was pertinent to understanding risk-bearing and the potential for systems of social protection to be extended to platform workers. Some of these risks – particularly those which stem from the categorisation of platform economy participants as employees, workers or self-employed – have been recognised by the

⁴² Donovan et al. 2016: 4; see also Calo and Rosenblat 2017: 4.

⁴³ Berg 2016: 6; see also Agrawal et al. 2013: 1-3.

⁴⁴ Srnicek 2017.

⁴⁵ Ibid: 10.

⁴⁶ Ibid: 11.

⁴⁷ Ibid: 11.

European Parliament in their recent Resolution.⁴⁸ Respondents distinguished the continuing involvement of intermediaries in the online economy, from arrangements where platforms facilitated direct engagement between customer and worker. As one respondent noted:

"From a worker's point of view, there can be different ways of using the worker. The boundaries between self-employed and workers are blurring/shifting. It is a grey area of employment – not in the sense of grey zone/unregistered work – but we do not have in such cases precisely defined sides of labour relations. And that is why the worker is deprived of social protection and exposed to uncertainty. On the other hand, one of the elements of the collaborative economy is freedom and activity in the non-profit context – for instance, cooperation between individuals, mutual help – and that is highly appreciated by young people who do not think about the details, do not analyse the potential consequences" (Union representative, Poland).

In other words, a number of our expert witnesses identified issues around the co-existence of both two-party and three-party, triangular relationships related to the context of platform employment.

Building on this observation, one respondent emphasised the difference between **"pure" collaborative platforms** (where the platform does not intervene to set prices etc.) and is "simply" an intermediary (albeit ones that provided an electronic service to allow users to meet and contact each other), and **those that did act in the underlying contract**. As a Spanish respondent argued:

"If platforms do not provide the underlying service, it is difficult for them to be able, or to have to undertake obligations regarding such. That makes it senseless for those who fail to understand that concept to call for platforms, for example, to be taxed on revenue they receive from users for provision of the underlying services, when the only tax obligation of the platforms may refer to commissions they obtain for providing their electronic service, but not for something they do not provide, or charge, themselves" (Legal expert, Spain).

Thus, it can be seen that **issues of definition** around the nature of platforms carry implications for the **design of appropriate regulatory arrangements**; in particular, for the provision of social protections.

To sum up, then, findings from this research underline the problems associated with a lack of fixed definitions in this area. Furthermore, the variety of terminology in common use, and the divergent ways in which similar terms are used, cautions against any attempt to impose fixed definitions on particular terms.

2.2.2. Collaboration and sharing on platforms versus "global corporations"

Once attention is shifted to the platforms, many features of the "collaborative economy" look less like collaboration or sharing than might have been expected. For instance, viewed in this way, it seems difficult to describe Uber, currently valued at around \$70 billion,⁴⁹ as anything other than a **global corporation**. Similarly, Airbnb is currently valued at around \$30 billion, and recently raised \$1 billion funding in its bid to become "a full-service global travel company".⁵⁰ In recognition of the, sometimes harsh, realities of work in this sector, many commentators have dropped use of terms such as "collaborative" and "sharing", in favour of

⁴⁸ European Parliament 2017b: Paras 37-39.

⁴⁹ Newcomer 2016: 1.

⁵⁰ Zaleski 2017: 1.

"gig economy",⁵¹ or "crowd work",⁵² or even, in a recent study of online platform algorithms, "the taking economy".⁵³

An important, though presently underdeveloped, alternative to the corporate platform model is provided by the emergence of non-commercial, not-for-profit, cooperative and/or municipal platforms of various types. Although on a far smaller scale than their commercial counterparts, particular interest has been generated by the growth, or, in some countries, re-growth, of **co-operative models of economic organisation**, applied to the potential of new internet technologies.⁵⁴ Elsewhere, municipal authorities have attempted to set up similar, non-profit platforms, seeking to promote employment opportunities, and to coordinate a variety of services, such as transport, and at city level.⁵⁵ Cooperative and municipal style platforms seem to have greatest potential in organising activities that are location-specific,⁵⁶ in part due to the role that municipal authorities play in regulating local service-provision.⁵⁷ Nevertheless, despite a number of interesting experiments, considerable doubts remain over the **capacity** of such ventures **to withstand commercial pressures** from corporate platforms in the longer term.⁵⁸

Another respondent developed this view by means of an explicit contrast between a sharing, collaborative model and the activities of the global commercial platform, Uber:

"As far as I've read, Uber emerged as part of the sharing economy, giving the possibility for people who are traveling anyway in a given direction to take other passengers with them, without engaging them to devote additional time, without changing their route. At present, this has become distorted into taxi transport. And instead of somebody traveling from point A to point B and taking other passengers from point A to point B, he sits and waits to be hailed to travel from what could be point C to point D" (founder of Travel-Sharing platform, Bulgaria).

Several other participants utilised the same contrast with Uber to illustrate their view of the collaborative economy as essentially a sharing-based, non-profit sphere of activity. For these respondents, there were few commonalities between the forms of work covered by these terms, apart from the fact that they both tend to use technology, apps and internet platforms to facilitate labour transactions. As one interviewee reported,

"Uber, for instance, is pure business, which is done through platforms, electronic platforms. Of course, it's very different [from traditional business models], but I wouldn't say it's sharing. Because sharing implies, how should I say? It doesn't imply payment. A favour means to do something to help somebody without expecting anything in return. Otherwise, it's pure business" (trade union representative, Bulgaria).

⁵¹ Brinkley 2016: 1-3; Cherry and Aloisi 2016: 3; CIPD 2017: 1-10; De Stefano 2016: 4; Donovan et al. 2016: 5; Friedman 2014: 5; Grossman and Woyke 2015: 3; Hunt and Machingura 2016: 5; Manyika et al. 2016: 1; Webster 2016: 1.

⁵² Barnes et al. 2015; Berg 2016: 6; De Stefano 2016: 4; Eurofound 2015a: 1; Huws et al. 2016: 1-5; Kittur et al. 2013: 3; Laplante and Silberman 2016: 6; Prassl and Risak 2016: 1; Risak and Warter 2015: 6.

⁵³ Calo and Rosenblat 2017: 1.

⁵⁴ Scholz 2016.

⁵⁵ Goudin 2016: 48.

⁵⁶ Schmidt 2017: 8.

⁵⁷ OECD 2016: 20; Conaty et al. 2015: 76.

⁵⁸ Schmidt 2017: 14.

2.2.3. Categories of actors in platform work

Whether motivated by altruism or, as is more usual, pecuniary incentives, **platforms** are generally understood as forming **one pole of a triangular relationship**. As the EC *Communication* puts it, activity in the platform-mediated economy “involves three categories of actors: (i) service providers who share assets, resources, time and/or skills ...; (ii) users of these; and (iii) intermediaries that connect — via an online platform — providers with users and that facilitate transactions between them”.⁵⁹ These triangular relationships have been analysed in various ways. Some accounts focus on the nature of the “users” of online economy services, distinguishing, for instance, between “peer-to-peer” and “business-to-customer” activity.⁶⁰ One of the difficulties of such an approach, however, is that **platforms often facilitate transactions** between individuals and companies in a variety of combinations, as both suppliers and purchasers of services. An important advantage of focussing instead upon the role of platforms as actors is that it enables distinctions to be drawn that help to disentangle such overlaps, and thereby to clarify key features of the complex variety of online economic activity discussed above. Most commonly, platforms have been distinguished on the basis of the types of activities that they mediate. In this way, researchers have developed a number of **typologies of platform-mediated economic activity**.

2.3. Towards a typology of platform work

As will be seen, the sheer variety of platform work poses significant difficulties for policy-makers. Platform work varies very greatly, in terms of the different types of work carried out, the different labour markets involved, the extreme range of platform size and nature, and the levels of participation of platform workers. Therefore, a typological approach can be helpful for clarifying and prioritising the most important issues for consideration. However, this extreme variety creates further difficulties for the construction of a suitable typology, since the number of dimensions potentially involved would rapidly exceed the limits of practicality. Consequently, this section will discuss aspects of variation in platform work, with the aim of developing a typology suited to present purposes.

2.3.1. Types of platform and platform work

Perhaps the most fundamental and widely-used distinction made by researchers is between activities that involve people in selling or, more often, renting out property or possessions, and activities that involve people in doing paid work; that is, activities which are **"capital-intensive" or "labour-intensive"**.⁶¹ When applied to the online platforms concerned in these activities, this approach distinguishes between **"labour platforms" and "capital platforms"**.⁶² This basic distinction reflects important variation in the role played by labour within the overall, broadly defined platform economy discussed above. For researchers and policy-makers interested in social protections for workers in the platform economy, attention will necessarily focus primarily upon the labour platforms, and upon issues raised by the activities they mediate.

Researchers have further distinguished between platform-mediated work that is carried out or, at least, **delivered online**, and **work that must be performed in person** at the

⁵⁹ European Commission 2016a: 1-6.

⁶⁰ Codagnone and Martens 2016: 12; Petropoulos 2016.

⁶¹ Gierten and Spiezia 2016: 1.

⁶² Farrell and Greig 2016: 1; CIPD 2017: 6. The European Commission's *Commission Staff Working Document: Online Platforms* does not make this distinction and contains almost no discussion at all of platforms that mediate paid work: consequently, leading platforms such as *Amazon Mechanical Turk* and *Upwork* are not mentioned at all, while *Uber* is mentioned only twice; once, in parentheses, and once in a footnote. See European Commission 2017a: 15, 48 n.1.

location where it is required.⁶³ Platforms mediating the former include well-known examples such as Amazon Mechanical Turk, Upwork, and Clickworker. Examples of the latter include Uber, TaskRabbit, and MyHammer. Closely linked to this distinction, is a recognition of crucial differences in the workforces coordinated by these platforms. That is, online work can be **carried out from any geographical location**, requiring only an internet connection and a suitable device, whereas physical work requires the person doing it to be **present in person where the work is required**. As a result, people carrying out offline work operate in a **local** or possibly **national labour market**, while those working online potentially find themselves in a **global labour market** – with EU-based workers in direct competition with workers in low-paid markets in developing nations. The regulatory questions posed by this difference are clear: while physical work might well fall under national or EU regulations, **what framework should apply to online work**, where the person paying for the work, the person carrying it out, and the platform taking a commission, may well be located on different continents?

A third common distinction identifies differences between platforms based on the **degree of skill** required to perform the work they mediate. Thus, platforms such as AMT and Clickworker mediate low-skilled online work, whereas the work mediated by Upwork is more highly skilled. Once combined, these distinctions produce the online/offline, high-skill/low-skill typology that is widely used.⁶⁴ There are a number of advantages to this basic typology. In the first place, the online/offline distinction helps to discern the relevant level at which regulation might apply – plainly, offline work is, at least in principle, far more amenable to local or national regulation. Differences in the level of skill required to perform the tasks available is likely, therefore, to influence **differences in the levels of pay** on different platforms. However, the relationship of skill to the income of workers on these platforms is not as clear as might perhaps be expected, because pay is also considerably influenced by whether work is conducted in an online (global) or offline (local) labour market, and by the amount of work carried out (see below). As a result of these factors, although it is possible to distinguish between platforms on the basis of the level of skill required to carry out the types of work that they mediate, such distinctions are less useful when considering the provision of social protections, simply because they tell us little about the actual outcomes for workers.

Once attention shifts to a more detailed focus upon the platforms themselves, analysis tends to move away from market relations, towards the types of work that are mediated, and the way work is organised. For instance, some researchers have treated taxi services, delivery, and other types of driving work separately from other forms of physical, local work.⁶⁵ Others have identified differences in the **ways that payment levels are set** on different platforms; most notably, distinguishing between platforms where prices are fixed in advance, those where workers bid competitively for work on the basis of price and those where prices are set in a formal competition style.⁶⁶ Yet others have introduced distinctions between jobs where workers have a high **degree of control over their work**, as against workers who exert only a low degree of control.⁶⁷

Given the very great variety of labour platforms currently in operation, one option for constructing a typology is to introduce ever more distinctions and dimensions, in an attempt to capture that variety. Perhaps inevitably, some researchers have found the temptation to do so irresistible. The difficulty with this approach soon becomes clear – at what point should

⁶³ For instance, Huws et al. 2016: 2.

⁶⁴ For instance De Groen et al. 2016: 2; Drahokoupil and Fabo 2016: 2; Huws et al. 2016: 2-3.

⁶⁵ Huws et al. 2016: 6.

⁶⁶ Eurofound 2015a: 1.

⁶⁷ Kalleberg and Dunn 2016: 3.

one stop adding dimensions? Additional distinctions quickly produce **highly complex and unwieldy typologies**, which may **add little in the way of analytical value**. Moreover, from an analytical point of view, given that it is not possible to include all possible dimensions, it can be difficult to justify the inclusion of some rather than others. Huws⁶⁸ has illustrated the complexities involved in formulating a typology capable of encompassing the full range of different work arrangements mediated by online platforms: in addition to dimensions for “work mode” (online or offline), and “final client” (company or individual), Huws includes “professional status”, (comprising “high skill”, “manual” and “clerical”); “place of work” (“own home”, “office” and “public/other”); and employment status (employee or self-employed). Huws further points out that this list is not exhaustive. An obvious omission is pay (high-pay, low-pay, etc.), and some have devised typologies including this dimension.⁶⁹ As Huws⁷⁰ further notes, however, the high-pay–low-pay dimension excludes unpaid work, of which there can be considerable amounts on labour platforms, and also neglects the wide variety of ways in which payments are calculated and made. Moreover, as recent research has found, **two key influences on pay levels** in platform work are simply **the level of participation and the availability of work**.⁷¹ As a result, it is not possible to distinguish platforms on the basis of how much platform workers are paid. Thus, even the profusion of dimensions listed here do not fully encompass as basic a feature of work as how much people get paid.

In conclusion, therefore, it appears that two recommendations can be made that might contribute towards resolving the conceptual difficulties that have marked research in this area. The first is to recognise the **advantages of adopting relatively neutral terminology** for analytical purposes. The second is to recognise the difficulties entailed in designing a typology to captures the full variety of the online, platform-mediated economy, and consequently the **benefits of constructing typologies according to specific requirements**. This latter approach will be adopted here, with the proposal of a typology designed specifically to conceptualise key issues in the provision of social protections for platform workers, an aspect discussed below.

2.3.2. A typology of platforms

The discussion above suggests strongly that a general typology of platform work is not only very difficult to construct – given the extreme variety of economic activities involved – but is also **unlikely to be helpful as a guide for policy-making**. Consequently, a different approach will be adopted here, seeking to develop a typology for the specific purposes of conceptualising challenges around the provision of social protections for platform economy workers. As will be seen, these challenges are significant; not least due to the sheer variety exhibited by platforms in terms of the types of work that is carried out, the nature and location of the workforces they utilise and the balance of control within the triangular work relation that they mediate.

The typology proposed here addresses **two key issues** in the provision of social protections for platform economy workers. The **first** of these concerns the **type of labour market** in which work is carried out. As discussed above (Section 2.2), it is possible to distinguish between platforms which mediate **offline** work, which must be carried out in person, at the location where it is required, and platforms which mediate **online** work, which is carried out or delivered via an internet connection. The workforce of the former is likely to be located at local or, possibly, national level, while the latter is potentially global. It should be noted, though, that the presumed global nature of online platform labour markets is subject to an

⁶⁸ Huws 2015: 4.

⁶⁹ Kalleberg and Dunn 2016: 13.

⁷⁰ Huws 2015: 4-5.

⁷¹ Berg 2016: 13; Eurofound 2015a: 11.

important proviso; namely, that the language used by the platform introduces some limits as to workforce location. Thus, a website that mediates online work, and which uses English, may well have access to a genuinely global pool of labour. Similarly, it is known that platforms based in **Spain** often have significant labour and client bases in South America. By contrast, it is likely that a platform for online work that uses, say, German or Italian, is likely to utilise a pool of labour located within the borders of **Germany** or **Italy**. Furthermore, access to certain global work platforms for non-native language speakers, is likely to be associated with higher levels of educational attainment, even if the work carried out does not itself require high levels of education. Clearly, then, policy-makers face considerable challenges in developing means by which appropriate social protections can be provided to workers across this spectrum of platform types and their diverse workforces.

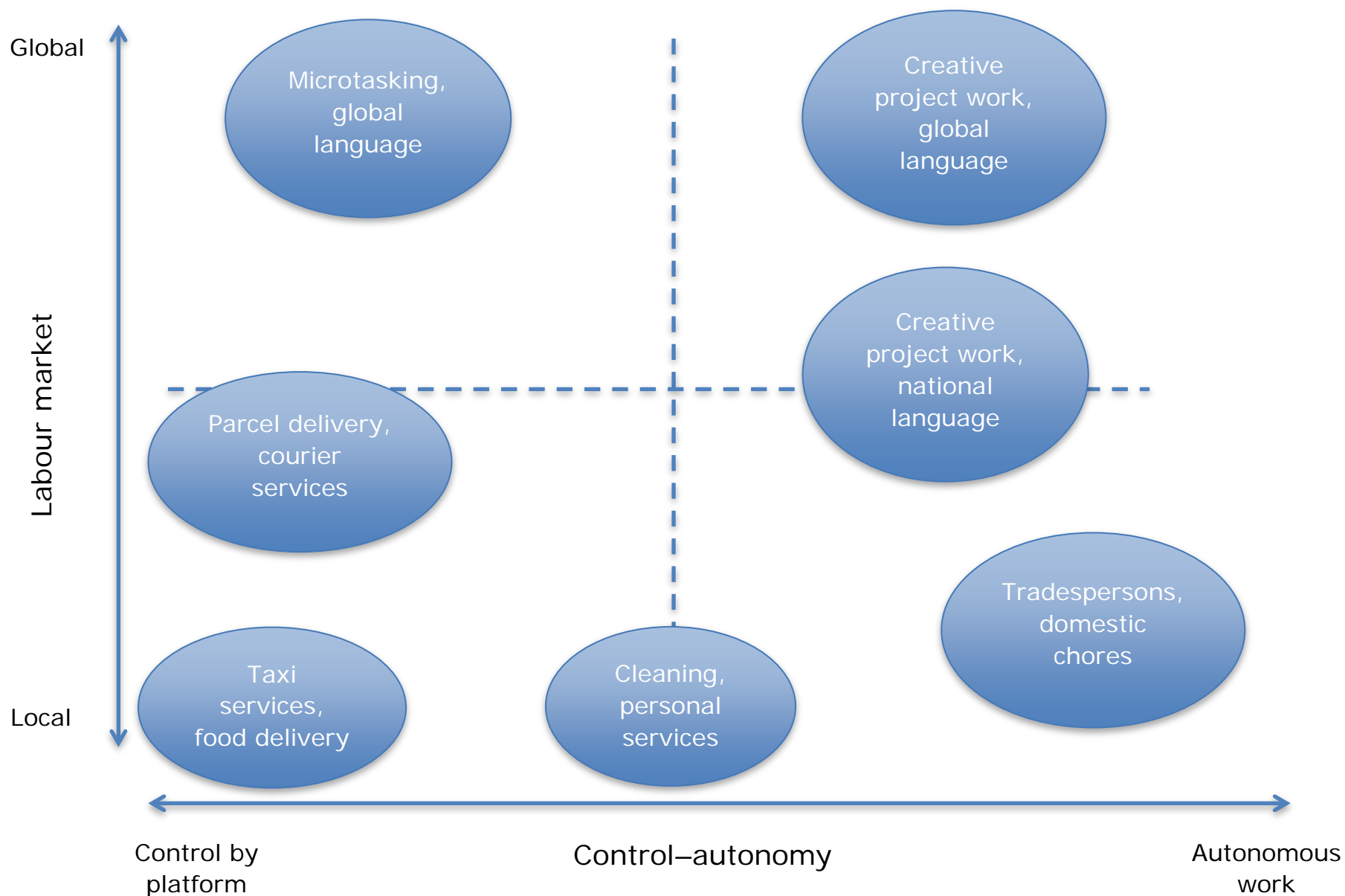
The **second key issue** with important implications for the provision of social protections for platform workers concerns the **degree of control which platforms exercise** over the conduct of work and, conversely, the **degree to which workers exercise autonomous control** over their work. This is a crucial issue because control is an important element in the legal categorisation of *employee*. The legal status of employee (or worker) is the gateway to many important social protections. Currently, virtually all of those working via online platforms are classified as self-employed and, consequently, are excluded from such protections. The complex legal issues involved in the definition of employee status and contracts of employment are dealt with at length in Chapter 4 (below). In sociological terms, however, it is possible to identify a dimension along which platforms vary in the degree of control that they exert over those workers who carry out the work that the platform mediates. **This dimension can be seen as a continuum.** At one end, platforms may exercise a considerable degree of control over what tasks are performed, in what order, how they are performed and the equipment to be used. At the other end of the continuum, workers may autonomously decide what tasks they will do, how, and in what order. As will be seen, it is indeed possible to distinguish between platforms on this basis.

It is important to note, though, that although the legal notion of control is often utilised in definitions of formal employment, it is not the intention here to make a legal ruling as to the status of platform workers. Indeed, in formal terms, these workers are **almost invariably categorised as self-employed or independent contractors** (see Chapter 4 for details). Rather, the argument here is that despite the legal categorisation, *in sociological terms*, in the conditions of their work many platform workers appear more like traditional workers than they do like actual self-employed.⁷² This analysis can be used to support a *normative* argument in favour of efforts to revise legal definitions such that these workers are not excluded from the social protections that are available to workers in more traditional forms of employment.

Once combined, these two dimensions enable us to map work platforms in terms of their potential amenability to regulations instituted within the EU (whether at EU level or below), and in terms of the similarity of the work carried out through their mediation to traditional forms of working relationships. Figure 2.1 shows what such a mapping might look like.

⁷² cf. Huws 2017.

Figure 1: Typological mapping of labour platforms



Conclusion

This chapter has explored some of the complexities involved in researching the platform economy, and the paid work carried out within it. In particular, we have argued that conceptual variety and the use of different definitions have important consequences for how the platform economy is understood, how its main features are characterised and, consequently, what are seen as the main priorities for policy development. In particular, we have presented strong grounds, found both in previous research and in our own expert interviews, for shifting the terms of analysis and debate away from one-sided conceptions that have dominated discussion in some areas. Terms such as “collaborative” or “sharing” capture only a relatively small aspect of the evolving platform-based economy, and give a misleading impression of its overall nature. There is, therefore, a clear case for adopting a more neutral term – such as *platform economy* – as we have done for this report.

The active role played by platforms, and the companies that run them, in developing this new sector of economic activity cannot be ignored or downplayed. As will be shown in what follows, efforts to secure social protections for platform workers, both now and in the future, depend upon grasping the role of platforms, the ways in which they mediate paid work, and the consequences of that mediation for those carrying out that work; namely, the paid platform workers themselves. Policy-makers also need to appreciate the variety of different types of platforms active in this sector, the great variety of different types of work that they mediate, and the different labour markets involved. The typology developed above represents one way of encompassing this variety, though it is not the only way. The next chapter develops our analysis by adding considerable empirical evidence to the conceptual discussion presented thus far.

3. PLATFORM WORK AND PLATFORM WORKERS

KEY FINDINGS

- Estimates for the size of the platform economy vary widely. On a broad definition, up to one third of the adult population has participated in the platform economy in the EU and USA.
- Focussing on paid work, it is estimated that between 1 per cent and 5 per cent of the adult population of the EU has earned some income at some time in this way.
- It is widely expected that these numbers will increase significantly.
- Participation in platform work is uneven – most is intermittent, and only much smaller numbers depend on platform work for all of their income.
- Platform work presents opportunities for workers in terms of flexibility and ease of access, but downsides include loss of employment rights, low pay, (often) long hours, insecure employment, heightened power imbalances, lack of training, new or increased health and safety risks, continuing or increased discrimination, and loss of social protections.
- Most platform workers have another job or other source of income. Platform workers tend to be low paid, but with a few earning relatively good incomes. Workers in the platform economy tend to be younger and more highly educated than the wider population.
- A significant proportion of our survey respondents found platform work enjoyable.
- Many platform workers experience problems such as late payment, and jobs taking longer to complete than advertised.
- One quarter of our survey sample was financially dependent on platform work, and were significantly worse off than occasional platform workers.
- Access to social protection schemes was very low, except for healthcare. Up to 70 per cent of respondents could not access protections such as maternity, childcare, and housing benefits. Lack of social protections was especially severe among lower paid, platform-dependent workers.

This chapter considers work in the platform economy in a more detailed empirical sense. An emerging research literature in the field provides insights into the nature of the platform economy, such as the extent of platform work and the factors driving its growth, and the experiences and demographic characteristics of platform workers. However, empirical research in this area is still at an early stage and remains underdeveloped. The chapter begins with a comprehensive review of previous literature on platform work, in order to frame our own research. We then build on this by presenting the findings of our own original survey of 1,200 platform workers across four well established platforms: Amazon Mechanical Turk; Clickworker; Crowdfunder; and Microworkers. The survey findings shed light on the reasons why people engage in platform work, the time spent working via platforms, earnings, the level of economic dependence on platform work, and various measures of job quality and job satisfaction. A novel feature of the survey is the attention it pays to platform workers' access to social protection schemes. Finally, the analysis identifies three different clusters of platform workers, differentiated by measures of dependence on platform working: 'moderate beneficiaries', 'random surfers' and 'platform dependent workers'. The three clusters are then interrogated to ascertain the different experiences of each cluster with regard to platform working and the extent to which they are able to access a range of social protections.

3.1. Size and drivers of the platform economy

A key area of difficulty for researching platform work is empirical: **how can the platform economy be measured**, and what are the most appropriate methods? In principle, empirical investigation of the platform economy should be very simple indeed – after all, online platforms collect enormous quantities of data concerning all aspects of the interactions they enable. However, platform companies have proved distinctly reluctant to divulge this information – an issue which researchers across the board view as in urgent need of redress by policy-makers (see Chapter 5: Recommendations).

In the absence of reliable data from the platforms themselves, researchers have adopted a diverse range of strategies to investigate the size and characteristics of work related to online economic activity, and to estimate its potential for growth. Despite important progress in empirical research (discussed below), numerous questions remain about the **nature of the workforce** in the platform economy, and consequently the appropriateness of social protections for these workers.

3.1.1. Size of the platform economy

The biggest single problem facing anyone attempting to estimate the size and potential for growth of the platform economy is the lack of reliable information provided by the platforms themselves concerning the activity they mediate. Platforms are under little obligation to divulge information about the numbers of people participating in the paid work that they enable, the numbers and value of transactions, the amount of work carried out, or the amount of money earned by those carrying out that work. The European Parliament's recent Resolution on a European Agenda for the Collaborative Economy pointed to the increased "traceability" of activities conducted via platforms, due to tax compliance and enforcement requirements.⁷³ However, systematic, robust data on workforces, employment and registered users of platforms remains elusive. Many platforms display **figures for numbers of registered users**, but it is often **unclear** how these numbers translate into **actual work carried out**. For example, evidence suggests that a significant number of people who register with a platform actually perform very little work, if any.⁷⁴ Without doubt, then, empirical research on the scale and impact of work in the platform economy would be much easier if arrangements were in place that required platforms to divulge more information about their activities than they currently do.

In the absence of reliable data from the platforms, researchers have adopted a variety of research strategies to try and estimate the scale of participation in platform work. These **attempts to estimate the scale of work** in the platform economy have **produced significantly different results**. In part, these differences reflect the diversity of research methods adopted. A further source of variation derives from the problem of how to define the platform economy (as discussed in chapter 2).

Estimates based on official statistics face other difficulties. Problematically, most **national statistical agencies do not collect data of this type**. One exception comes from Canada, where, in October 2016, the official Labour Force Survey included a set of questions concerning both spending within and earnings from the platform economy. Focussing only on rental platforms (such as Airbnb and FlipKey) and "ride services" (such as Uber and Lyft), the survey estimated that some 9.5 per cent of the Canadian population had used such services, while 0.3 per cent had offered ride services and 0.2 per cent had offered accommodation.⁷⁵ Clearly, these figures are small – though not insignificant – which is not

⁷³ European Parliament 2017b: para. 40.

⁷⁴ Huws et al. 2016: 8; CIPD 2017:4.

⁷⁵ Statcan 2017.

surprising given the narrow focus on ride services. Taken alongside other evidence, which suggests that platform driving is less common than other forms of platform work,⁷⁶ these figures are broadly in line with other findings (see below). It is to be hoped that national statistical agencies find ways to rectify these gaps in the statistical records.

Given the lack of official figures for platform work, researchers have sought to use **proxies** for these new forms of work organisation derived from administrative data. However, this approach has encountered **further difficulties**. A recent controversy from the USA illustrates the problem. In 2015, *The Wall Street Journal* ran articles questioning claims that platform work was increasing, on the basis that employment statistics showed no increase in self-employment, despite the common assumption that most people working in the platform economy would be classified as self-employed.⁷⁷ In response, it was pointed out that official statistics also showed a notable decline in regular, 9-5 jobs, suggesting a growth of non-standard employment, which was assumed to include platform work.⁷⁸ Furthermore, data from US cities where the platform economy was thought to be growing most rapidly – such as Los Angeles, Austin, and Orlando – did indeed show significant increases in self-employment,⁷⁹ even though these did not show up in national figures. Research has also shown that **people with multiple jobs** are **unlikely to declare** them all,⁸⁰ which would further reduce official estimates of platform work, which often comprises multiple, small pieces of work. Thus, **official statistics** are currently **poorly equipped** for capturing situations where "more and more workers exist simultaneously in multiple worker categories".⁸¹

Interviewees in this study repeatedly expressed frustration with the lack of hard data.⁸² Whether policy-makers, researchers, platform representatives, trade unions, worker advocates or other stakeholders, time and again, interviewees told us that in their country firm data concerning the scale of participation in work via online platforms was not available. This evidence underlines the need for policy-makers to **prioritise official research and data-gathering** in this area. It seems increasingly incongruous that the sector of economic activity which is perhaps most strongly associated with the recent explosion of "big data" should itself be almost invisible in economic data.

Studies of platform economy work have produced very different estimates of the current scale. Utilising a very broad definition of the "on-demand" economy, the **Burson-Marsteller survey**⁸³ estimated that 42 per cent of US adults had used at least one on-demand service, and 22 per cent had offered at least one – equivalent to 86.5 million US adults using and 45.3 million offering services in the on-demand economy. By any standard, these are very large numbers. However, the definition of "on-demand economy" adopted in this study included ride-sharing, accommodation sharing and rental, short-term car rental (car clubs), "platforms that connect people looking for a service", and "food or goods delivery". Adopting a similarly broad definition, the **McKinsey Institute**⁸⁴ also found large numbers, estimating the combined "independent workforce" of the US and EU-15 to be some 162 million people. The definition adopted by the McKinsey Institute included workers on fixed term contracts of

⁷⁶ For instance, Huws et al. 2016: 27.

⁷⁷ Zumbrun 2015: 2; Zumbrun and Sussman 2015: 2.

⁷⁸ Hill 2015: 1.

⁷⁹ Hill 2015: 1.

⁸⁰ Harris and Krueger 2015: 8.

⁸¹ Hill 2015: 1.

⁸² Portraits of the nature of the platform economy in each of the eight case study countries can be found in Annexe 1, and further observations from the interviews about the rise of the platform economy in individual countries are provided below.

⁸³ Burson-Marsteller et al. 2016: 1.

⁸⁴ Manyika et al. 2016: 3.

12 months or less, people employed through temporary work agencies, and people who "sell goods or rent out assets such as spare rooms". Clearly, then, the use of very broad definitions leads to very large estimates for participation in varieties of platform-mediated work.

Utilising a much narrower definition, **Katz and Krueger** found that "about 0.5 percent of workers indicate that they are working through an online intermediary".⁸⁵ This figure is evidently *much* lower than those in the studies cited above. However, Katz and Krueger utilised a rather complex research procedure, which depended on respondents first identifying themselves as doing a "main job or a secondary job [which involved] direct selling to customers", before asking whether respondents "identify customers" through an intermediary and, finally, whether they "identify customers through an online intermediary".⁸⁶ These findings might identify people who carry out a lot of platform work, but probably under-estimate overall participation, since it is known that participation is often highly intermittent (see below).

The final **US** example adopted yet another definition, and yet another methodology. Researchers at the **JPMorgan Chase Institute**⁸⁷ drew on data from anonymised information from some 28 million US bank accounts. This research found that, in September 2015, 1 per cent of these accounts received at least one payment from one of 30 online economy platforms – a figure which combined labour and capital platforms. Looking at labour platforms only, some 0.4 per cent received a payment that month. Over a three-year period, around 4 per cent of the sample received a payment from an online platform of some type, including 0.9 per cent from a labour platform.

Our **interviewees** gave similarly **varied estimates** of the size of the platform economy. For instance, interviewees from **Canada, Spain and Germany** described the platform economy as "really big", or "huge", while others were more cautious, describing a "small percentage of people working" (Platform company, Poland); a "very small" contribution to GDP (expert, Poland); a "*highly marginal activity on the edge of the labour market*" (Professional association, UK); "a marginal phenomenon" (government official, Germany); "it is still quite a small phenomenon" (union representative, Denmark). One interviewee told us:

"People get carried away with the idea that Uber is the future of work, but that's only 25,000 workers in France out of 25 million" (Government representative, France).

Again, differences among interviewees concerning the scale of platform work reflect the different definitions in use. Thus, **higher estimates** for the scale of economic activity in this area often came from participants who employed a broad definition – including activities such as renting out accommodation, online buying and selling, and so on – whereas smaller estimates tended to come from participants whose focus was on levels of participation **in paid work** in the platform economy. That is, the larger estimates included capital platforms, while the lower estimates focussed on labour platforms. Nevertheless, the variation in estimates among the stakeholders we interviewed suggests that they have essentially been reduced to working from what are essentially "best guess" estimates as the basis for devising policy; plainly, a far from ideal situation for policy-making. Again, this evidence demonstrates the need for reliable data in this area.

More recently, researchers have used **online survey methods** to estimate participation in paid platform work. Online surveys in seven European countries (**UK, Sweden, Germany, Austria, Netherlands, Italy, Switzerland**), found that around 6-8 per cent of the sample carried out paid platform work at least once each month in **UK, Sweden, Germany**, and the

⁸⁵ Katz and Krueger 2016: 7.

⁸⁶ Ibid.: 16.

⁸⁷ Ibid.: 2.

Netherlands, with a higher proportion of 13–15 per cent doing so in **Austria, Italy** and **Switzerland**.⁸⁸ This study also estimated that around 2.9 per cent of the working age population of these countries gained more than half of their income from platform work.⁸⁹

Using a somewhat larger sample, a more recent **survey in the UK found that 4 per cent of respondents** had engaged in paid platform work at least once in the previous 12 months.⁹⁰ Although some uncertainties remain about the use of online surveys to investigate an online phenomenon, these methods appear to be producing reasonably consistent results, and have largely resolved problems of conflating platform work and other types of online economic activity. A critical next step for research would entail the application of these innovations in survey design to much larger, offline samples – in the type of survey traditionally deployed for compiling official, government-sponsored statistical data. Such an approach might well be capable of producing, at last, robust evidence of the scale of paid work in the platform economy.

In summary, estimates for the size of the platform economy vary considerably depending on the definition used and methodology applied. The largest estimates come from studies that adopt a broad definition and group together platform work with other activities, including buying, selling, and renting (via capital-intensive platforms), as well as forms of employment such as temporary agency work or fixed-term contracts – which are both more established and already covered by EU level regulations. For the purposes of this study, to examine issues of social protections among workers in the platform economy, it makes sense to focus on the activities mediated by labour platforms. On the basis of previous research, it seems likely that somewhere **between 1 per cent and 5 per cent of the adult population in the EU has participated** at some time **in paid work in the platform economy**. Participation is usually intermittent, with only a smaller proportion working in this way on a full-time or nearly full-time basis. Nevertheless, as will be shown in Chapter 3, the intermittent nature of much platform work should not be taken to mean that such sources of income are trivial for those undertaking them.

3.1.2. Growth and drivers

Growth

Consideration of the scale of work in the platform economy leads almost inevitably to questions about its potential for further growth. Here, there is a broad consensus among researchers that **growth is likely**; indeed, it is widely considered inevitable. Similarly, among our interviewees, there was little doubt that the platform economy would continue to grow significantly, and that the numbers of people working in the platform economy would likewise grow. Only a very small minority told us that they expected little or no growth. Consequently, while there was uncertainty among our interviewees concerning its present

⁸⁸ Huws et al. 2017: 23. Participation in platform work between the two groups of countries studied by Huws et al does vary quite markedly. Overall, the study points to higher rates of participation in platform work than had been anticipated. See discussion in Huws et al. 2017, Appendix 1. In order to check their findings, the authors also carried out two offline surveys (in the UK and Switzerland), which, despite problems posed by the use of different survey methods, gave broadly comparable results.

⁸⁹ Huws et al. 2017: 21. This study is the research mentioned by Oliver Roethig, Regional Secretary of UNI-Europa, in expert testimony at the June 2017 meeting of European Parliaments' EMPL Committee – although at an earlier stage (Huws et al. 2016). At the same committee meeting, a representative of DG Employment mentioned research currently underway at Eurostat, the European Platform Tackling Undeclared Work, and the Sectoral Social Dialogue Committee on Temporary Agency Work. However, these investigations are not due to complete until 2018 or later, with the exception of preliminary findings from the Platform on Undeclared Work, which have been included elsewhere in this report (see Heyes and Hastings 2017). The June meeting of the EMPL Committee is available to view online at: <http://www.europarl.europa.eu/ep-live/en/committees/video?event=20170712-0900-COMMITTEE-EMPL>.

⁹⁰ CIPD 2017: 2.

scale, the widespread expectation that activity in this area would increase significantly and rapidly was reflected in a similar broad consensus that **developing appropriate regulatory arrangements** is now a matter of some **urgency**.

The importance of wider labour market considerations is further underlined by a US study which, in a rare exception to the widespread assumption of continued growth, argues that growth of the online platform economy may already have peaked.⁹¹ Using bank account data, Farrell and Greig found that rates of growth of participation in the platform economy had slowed or even flatlined in recent years, and the authors saw this slowing as related to three main causes: declining monthly earnings for platform workers; high turnover in platform economy participation; and improvements in non-platform labour markets.⁹² However, as Farrell and Greig confirm, while participation in capital platforms appears to have decreased somewhat, participation in labour platforms has continued to grow, even despite some fall in earnings for individual platform workers. Indeed, **continued growth** means that, in a number of large **US** cities, participation in labour platforms appears to be developing into a **significant source of employment**, with participation rates of 0.5 per cent or more in New York, Phoenix, Dallas, San Diego, Denver, Chicago, and Miami, and 1 per cent or more in Los Angeles, San Jose, Atlanta, and San Francisco. Thus, while Farrell and Greig have certainly demonstrated that employment in the platform economy will not grow automatically, and that growth may be uneven – even, cyclical – it is far from clear that it has peaked.

Drivers

There has been less analysis of the drivers of growth in the platform economy, and of employment within it. Very commonly, it is assumed that the decisive factor driving the growth of the platform economy is the development of digital and online technology. It has been recognised, though, that many of the largest platforms do not in fact make use of highly innovative technology; for instance, Uber's technology is far from unique.⁹³ Of course, technology is crucial in one respect; namely, that **without** high levels of internet **connectivity the online platform economy is impossible**.⁹⁴ Consequently, our interviewees from countries where internet access is less developed – for instance, **Bulgaria** – expressed concerns that this was holding back development of online economic activity. In one of our most striking findings, while interviewees viewed technology as a *facilitator* of the platform economy, almost none of the experts interviewed saw technology as a key factor driving its growth. When it came to the actual drivers of the expansion of platform work, interviewees identified a **range of non-technological factors**, including the prevailing regulatory environment in the national economy, and broader economic and social conditions. This unexpected finding dovetails with the equally surprising finding of research attempting to estimate the scale of participation in platform work across seven European countries,⁹⁵ which found paradoxical evidence of higher participation rates in countries with relatively less well-developed internet connectivity (**Austria, Switzerland, Italy**) than in countries with higher levels of internet access (**UK, Sweden, Germany, Netherlands**). Although the precise reasons for these differences need further investigation, the research authors suggest it indicates the importance of labour market factors over technical drivers; for instance, the prevalence of informal economic activity, and the importance of seasonal work such as agriculture and tourism.

⁹¹ Farrell and Greig 2016b: 2.

⁹² Ibid.: 2.

⁹³ Kaminska 2016.

⁹⁴ Berg 2016: 1.

⁹⁵ Huws et al. 2017.

Indeed, previous research has identified numerous factors influencing growth of the platform economy and platform work, and many of these were also mentioned by our interviewees. Some researchers have pointed to the huge influx of investment in the platform economy, often in the form of venture capital, as a key driver of growth.⁹⁶ Decisions taken by companies also appear to be important, such as "the bypassing of traditional routes and regulatory procedures when procuring labour supply".⁹⁷ Interviewees identified a range of business practices and company behaviours as playing a significant role in driving the growth of platform work.

Often, the key issue motivating companies to adopt platform-based forms of work organisation was seen as the availability of significant cost savings as a result of utilising labour provided by a workforce that is not directly employed. One interviewee described the growth of this form of insecure work within the logistics industry, where the huge growth of online shopping, expansion of home-delivery parcel services, and relentless cost-cutting by companies has driven **wholesale shifts** in the sector workforce **from direct employment, towards the engagement of labour via a platform on a self-employment or independent contractor basis**. In the **UK**, for instance, companies moving from a direct employment model to a self-employment model typically reduced their labour costs by 13 per cent through avoiding employers' contributions towards National Insurance (social security payments), and by a further 12 per cent through avoiding the requirement to provide paid holidays under EU Working Time Regulations. Clearly, these figures represent considerable savings for companies, and were a significant driver of the growth of platform work.

Overall, many of our interviewees thought that **tax arrangements** in particular Member States gave **financial incentives** to companies to move away from direct employment towards a platform-based workforce. While some employer representatives we interviewed saw benefits for businesses in adopting this approach, others argued that the platform economy "*should not be about reducing the costs of employment*" (intermediary, Italy). Indeed, interviewees from employer organisations often reflected their members' complaints that such practices place more responsible employers at an unfair disadvantage. Moreover, as interviewees also pointed out, **this business model also reduces financial contributions** to important **social protection schemes**. Thus, the question of tax policy, and wider business regulation, was seen by interviewees as an important factor in the growth of platform work, as well as its effects on wider employment practices and social protections.

Not surprisingly, a common theme from our interviews was the importance of wider labour market influences in driving the growth (or lack of growth) of platform work. Previous research has found some evidence that preferences among particular groups of workers – especially among higher occupational groups such as managers, professionals and technical workers⁹⁸ – may play a role in driving the growth of platform work, possibly indicating a preference for "independent work" over traditional employment⁹⁹ – a preference which, in itself, raises questions about the widely-perceived deterioration of jobs in standard employment. Moreover, it is also clear that at least a substantial minority of platform workers are participating in this form of employment due to **a lack of alternatives** in a context of financial insecurity.¹⁰⁰

Our interviewees shared the view found in much research that participation in platform work was very often supplementary in nature, used to top up income from other sources. This

⁹⁶ Drahokoupil and Fabo 2016: 3.

⁹⁷ Bergvall-Kåreborn and Howcroft 2014: 220.

⁹⁸ Brinkley 2016: 10.

⁹⁹ Manyika et al. 2016: 8.

¹⁰⁰ CIPD 2017: 16.

evidence suggests that if sufficient income was available elsewhere, workers would be less likely to participate in platform-mediated work. One of the main drivers of the growth of platform work appears, therefore, to be the relative shortage of adequate income from more traditional forms of employment. For instance, a participant in **Denmark** linked a low estimate for the scale of work in the platform economy to the **availability elsewhere of more secure, better-paid work, with social protections**. By contrast, interviewees from **Poland** and **Bulgaria** emphasised the prevalence of low-wage work in those countries as a factor encouraging the growth of this type of work. Indeed, many interviewees saw the growth of platform work as linked to the growth of low wage and precarious work more generally.

Moreover, what is clear from the research of Farrell and Greig¹⁰¹ mentioned above is that patterns of work in the platform economy are linked to wider labour market pressures and, consequently, to the influence of labour market policies. The implication, here, is that the potential for the growth of employment in the platform economy will be significantly constrained if conditions of platform-mediated work become less favourable than opportunities elsewhere.

Other influences on the growth (or otherwise) of employment in the platform economy were more closely linked to conditions within particular countries and, consequently, **closer attention** needs to be paid to the particular **trajectories of development** of platform economy working in **individual countries**. In **Spain**, for example, interviewees suggested that the growth of the platform economy has been particularly significant in tourism, where some of the biggest known platforms are to be found, and because of severe economic crisis following the global financial crash. The dynamics of the platform economy have also been significantly influenced by actions at a local and regional level, for example, in a number of city level legal cases involving BlaBlaCar, where judges have ruled that platforms are not themselves providing services. Interviewees also told us that the growth of the platform economy in **Spain** had been held back by the regulatory complexity surrounding self-employment – where the status of “freelancer” required individuals to pay a fixed fee each month, regardless of the amount of work carried out.

Participants from **Bulgaria** and **Poland** reported that an important driver of the growth of platform work was the prior existence of a significant “grey” economy, with a prevalence of undeclared work and earnings. Interviews emphasised elements of continuity between older habits of undeclared employment and new opportunities presented by online platforms for generating income outside of the formal taxation system. The potential for earning undeclared income was also mentioned as a driver of platform work by interviewees in **Spain** and **Denmark**. Other recent research has similarly highlighted links between the rise of the “gig” economy and the growth of bogus self-employment as a form of undeclared work.¹⁰² This research found evidence that increases in gig-type work was promoting the spread of undeclared work out of manual sectors where such practices have traditionally been more common, and that the spread of taxi-apps such as Uber was associated with a rise in bogus self-employment.¹⁰³

Of course, the presence of a grey economy and practices of undeclared or unregistered work are not only labour market matters. **These issues concern policymakers and numerous other stakeholders** in terms of missing revenues,¹⁰⁴ and wider problems stemming from the **lack of social protections** which usually go hand in hand with this type of employment.

¹⁰¹ Farrell and Greig 2016b.

¹⁰² Heyes and Hastings 2017.

¹⁰³ Ibid: 1, 3, 48.

¹⁰⁴ Ibid: 5.

Nevertheless, this evidence underlines the importance of taking into account factors influencing patterns of employment more generally in order to understand the growth of platform work.

In **Bulgaria** informal property rentals, especially of holiday homes, were identified as being already well-established before the advent of platforms such as Airbnb. Interviewees in **Bulgaria** also emphasised the significant presence of online ride-sharing arrangements, whether on a non-profit basis via Facebook groups (which, in total, comprise many thousands of participants), or by the more familiar global spread of Uber. The presence of large Uber operations in countries such as **Poland, France**, and the **UK** has led to significant public debate in those countries over its corporate and/or employment practices, and this was also reflected in more common references to the app by interviewees. In contrast, participants from countries where Uber's operations have been restricted by regulatory arrangements tended to make fewer references, such as in **Spain, Germany**, or **Denmark** (where Uber announced its intention to close its operations during fieldwork for this research). Thus, variation in the accounts provided by our interviewees reflected, to a considerable extent, actual variations in the growth dynamics of platform-based economic activity between different Member States, and the particular conditions pertaining in each country.

Box 2: Comparing the US and the EU: The growth of the platform economy

Given significant differences in the size and character of the platform economy across Member States, it is not possible to make a general comparison between the EU and USA in relation to the development of the platform economy thus far. The specific economic conditions, institutional arrangements and regulatory mechanisms in place in particular countries have exerted significant influence upon how the platform economy has emerged and grown – and it is likely that this influence will continue. Furthermore, it should be borne in mind that there is currently considerable variation across different parts of the USA itself, with a small number of tech "hot spots" – such as San Francisco, New York, and Austin, Texas – exhibiting far more rapid development of the platform economy than other regions. Indeed, variation both between and within different countries serves as a reminder that technology is not the only driver of change in the platform economy. Rather, the decisions of policy-makers remain a key influence on emerging practices.

Conclusion

In summary, then, it seems likely that the **numbers** involved in platform work is **likely to grow**, although more research is needed to understand both its present scale, its uneven extent, and the rate at which growth can be expected. Further research would also be beneficial to gain a better understanding of both the general drivers of growth, and the interactions between them, as well as the influence of specific conditions within particular sectors and Member States. While we can realistically expect, then, that the numbers of platform workers across the EU will increase in the coming years, the next section discusses what is known about those people who are already working in this sector.

3.2. Benefits and challenges of working in the platform economy

Previous studies have established a broad consensus concerning the advantages and disadvantages of working in the area. The main **advantages** for workers are flexibility (especially over hours of work) and ease of access (especially for online work carried out from home). The **disadvantages** include low pay, unpredictable and insufficient availability of work, insecurity of employment and lack of social protections. As the European Parliament has highlighted in its recent Resolution, balancing these advantages and disadvantages

through an appropriate regulatory environment is particularly challenging.¹⁰⁵ There is a need for greater understanding of the factors that reinforce or alleviate these conditions, as well as their interactions, and considerable work remains to be done to identify appropriate policy responses that can enhance the advantages and alleviate the disadvantages. These policy responses will be addressed in the following section. However, it is important to base that discussion on a clear understanding of the advantages and disadvantages of this form of working. This section will set out the main findings from our interviewees concerning the benefits and costs of working in this area of economic activity.

Box 3: Comparing the US and the EU: costs and benefits of platform work¹⁰⁶

Discussion of the benefits and costs of paid work within the platform economy are closely aligned in the USA and EU. Thus, there is a general recognition that work in this area offers real opportunities to workers, such as flexibility and access to new earning opportunities. There is far less agreement, though, on the extent to which this potential is currently matched by the actual experience. Moreover, it seems unlikely that these controversies will be resolved in the immediately foreseeable future. At present, paid work in the platform economy remains at a relatively low level in both the EU and USA, but with broad agreement that it is likely to grow significantly, increasing the importance of appropriate regulation. Furthermore, while average levels of participation remain relatively low, there is evidence of concentrations of platform work in particular geographical “hot spots”, where regulation is consequently a more pressing issue. There is evidence from both the USA and EU – for instance, in very high turnover rates – that workers might engage more often and more fully in the platform economy, were regulatory mechanisms in place to support and encourage fair and prompt payment, along with transparency around platform practices and opportunities for training and progression.

3.2.1. Demographic characteristics of platform workers

Previous research has suggested that workers in the platform economy are **generally younger than average**,¹⁰⁷ although there is clear evidence that older and retired workers also participate.¹⁰⁸ The **gender split** among workers in the platform economy **is relatively even**, although there is a tendency for the balance to shift somewhat towards men among those who do this type of work most often.¹⁰⁹ Research also suggests that those who participate in *online* work in the platform economy are far more likely than average to hold a degree-level qualification.¹¹⁰ Once *offline* work is included, however, **educational attainment** levels are considerably closer to those of the general population.¹¹¹

Our survey results¹¹² provided new evidence on the characteristics of platform economy workers, which were broadly in line with previous research. The majority of respondents were

¹⁰⁵ European Parliament 2017b: para. 37.

¹⁰⁶ For the US, see Farrell and Greig (2016a). For the EU see Eurofound (2015a); Huws et al. (2016); CIPD (2017). Berg (2016) presents evidence concerning platform work in both the US and Europe, as well as other global locations. For an unusually sceptical view of future growth in platform work, see Farrell and Greig (2017b).

¹⁰⁷ Berg 2016: 6; Eurofound 2015a: 2; Huws et al. 2016: 4; Ipeirotis 2010: 2.

¹⁰⁸ Barnes et al. 2015: 4.

¹⁰⁹ Berg 2016: 8; Huws et al. 2016: 6; Ipeirotis 2010: 2.

¹¹⁰ Berg 2016: 8; Eurofound 2015a: 2; Ipeirotis 2010: 2.

¹¹¹ Huws et al. 2016: 2.

¹¹² The survey was conducted across four platforms: Amazon Mechanical Turk (AMT), Clickworker, CrowdFlower and Microworkers. These are well-established micro-tasking platforms. Examples of micro-tasks completed by workers on these platforms include video screening, transcription, picture matching and completing surveys. Most tasks take seconds or minutes to perform. While platform work overall is highly varied, micro-tasking platforms provide good access to a sample of platform workers for carrying out research, and also exemplify the challenges involved in providing social protections in this area. See Annexe 2 for details. Findings based on 1200 responses equally distributed across the platforms.

males (61%) and of white ethnic background (85%). The sample was comprised predominantly of young and middle age workers (over 60% of respondents were below 40 years of age).

In terms of educational attainment, over half of the sample was formed of those who attained a university degree (both first and second stages of tertiary education). And 23.8 per cent were currently pursuing a degree. There were a few workers in the sample who completed only upper secondary education, demonstrating a distinct polarisation within the platform economy. The sample was nearly equally split into married participants (and those living in civil partnership) and singles (involving separated couples and widowers) while 60.4 per cent of respondents had no children or other dependents.

Geographically, the sample was almost equally divided into three regions: USA, Western Europe (primarily **UK**, **France** and **Germany**) and the South of Europe (**Spain**, **Italy**, **Greece**). There was also a small group of Eastern European Countries (**Poland**, **Bulgaria**), comprising 8 per cent of the sample.

3.2.2. Reasons for working in the platform economy

Numerous studies have shown that a **key benefit** of work in the platform economy is the **potential for flexible working arrangements**. Many platform economy workers are able to work from home via an internet connection when other opportunities are either unavailable or when individuals are unable to work outside their home. For instance, this form of internet-based home-working may be attractive to people with caring responsibilities, poor health or disability.¹¹³ Indeed, one study of Amazon Mechanical Turk (AMT) workers ("Turkers") in the USA reported, "[AMT] workers I have met include laid-off teachers, mobility-impaired professionals, military retirees, agoraphobic writers, under-supported college students, stay-at-home parents and even Malaysian programmers-in-training".¹¹⁴ Work carried out offline but mediated by online platforms can also be **fitted flexibly around other activities**, including other work, or study.¹¹⁵ Evidence further suggests that around two thirds to three quarters of those who work in the platform economy like it, while around one quarter to one third do not. Moreover, this preference is strongly related to how much choice people have – that is, those who like it least are those who say they have no suitable alternatives.¹¹⁶

However, it seems that the **benefits of flexibility** are **not evenly spread**. According to the McKinsey Global Institute, almost one third of the "independent workforce" they identified were undertaking such work either reluctantly or because they were "financially strapped".¹¹⁷ This divide appears to reflect research on self-employment in general, which has grown in some areas. For instance, in the **UK**, recent growth in self-employment has been driven largely by relatively "privileged" workers – mid-career professionals, who have given up permanent, full-time employment, to exchange a modest decline in income (or none at all) for greater flexibility and better work-life balance.¹¹⁸ A proportion of these people subsequently seek clients for their services via online platforms. Although this evidence supports claims about the advantages of flexible, "gig" style working patterns, it also appears to suggest that at least some of the growth in platform-mediated working is being driven by the widely-documented deterioration of work in more traditional settings – afflicted by work-intensification, harsh performance management methods, stress, and the increasing

¹¹³ Berg 2016: 2; Eurofound 2015a: 1; Irani 2015: 4.

¹¹⁴ Irani 2015: 231.

¹¹⁵ Berg 2016: 2; CIPD 2017: 2.

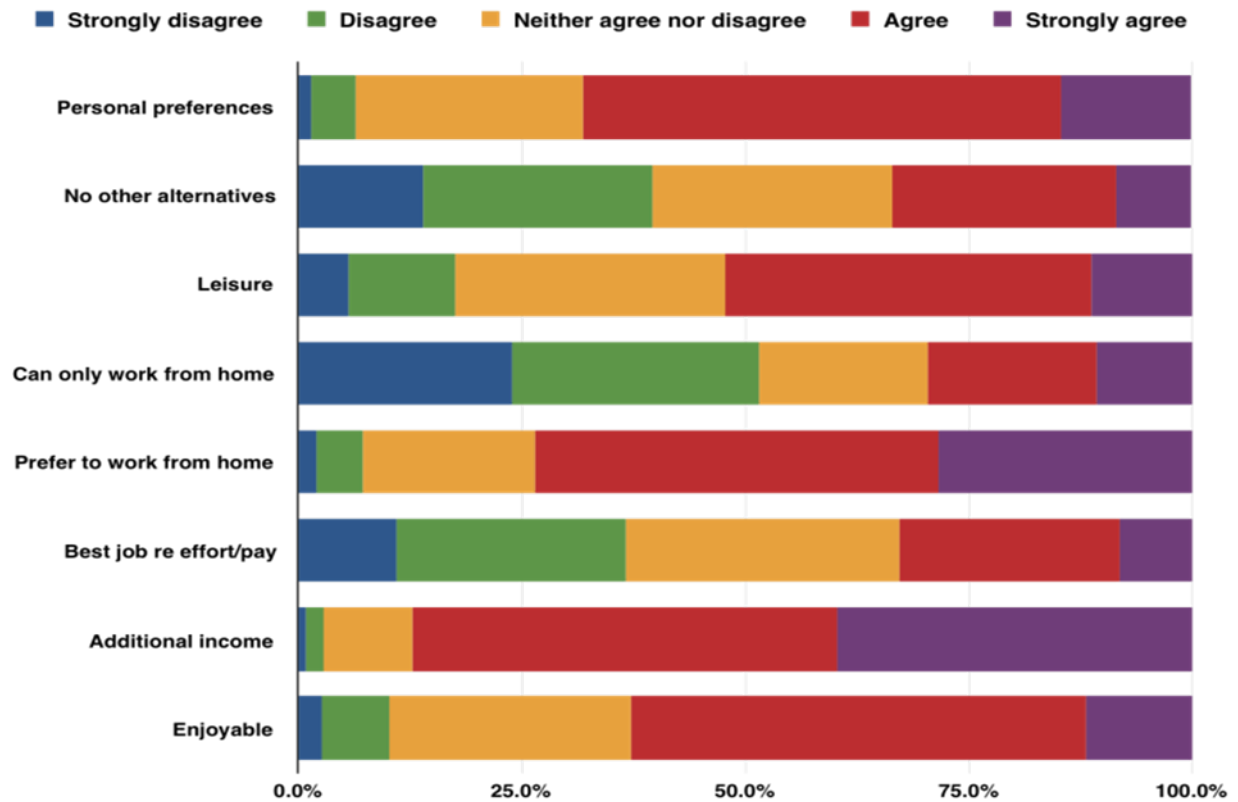
¹¹⁶ CIPD 2017: 2.

¹¹⁷ Manyika et al. 2016: 10.

¹¹⁸ CIPD 2017: 2; Tomlinson and Corlett 2017: 2.

intrusion of work into home life. Thus, the extent to which shifts towards platform-mediated forms of work can be seen as positive choices is open to question.

Figure 2: Reasons for working in the platform economy



The results of our survey, as presented in Figure 2, indicate a **prevalence of personal reasons** for participating in platform work, especially participants' desire to work from home, rather than other plausible factors, such as a lack of alternatives in the labour market. However, few workers agreed with the statement that the platform economy provides the most adequate pay levels for the effort/time spent. Respondents indicated that working in the platform economy was a good source of **additional** income, agreeing at the same time that this type of work was somewhat enjoyable.

3.2.3. Working time and pay

A key feature of platform work is the very considerable **variation** in the amount of **time that people spend doing it**. To some extent, this reflects the flexibility of platform work, as participants fit work around other activities. However, research also shows that many platform workers **cannot get as much work as they would like**.¹¹⁹ The lack of available work means that it is common for platform workers – especially those seeking online work – to spend long periods searching for work, in what effectively translates into many hours of unpaid labour; an aspect of platform work that has been characterised as a key **inefficiency of online markets for work**.¹²⁰ As a result, platform workers are commonly under pressure

¹¹⁹ Berg 2016: 2; CIPD 2017: 4.

¹²⁰ Ibid.: 4.

to accept tasks for which they may be unqualified,¹²¹ or which they have to perform at anti-social hours.¹²²

Furthermore, research shows that most workers in the platform economy use it to **supplement income** from other sources, especially if that income fluctuates.¹²³ Previous research suggest that for between around one third and one half of platform workers, earnings from the platform economy contributed less than 10 per cent of their total personal income.¹²⁴ Nevertheless, a substantial **minority** of platform workers **earn more than half of their personal income** in this way.¹²⁵

Another common feature of platform work is **very low rates of pay**. Pay rates for platform work are usually below the level of equivalent work in more traditional forms of employment, and often below the hourly rate of any minimum wage arrangements.¹²⁶ Evidence also suggests that workers in the platform economy make only very **limited saving for pensions**, if any – in common with low pension saving rates among the self-employed more generally.¹²⁷ One reason for low pay is the lack of work opportunities previously mentioned, as time spent searching for work is unpaid. Another reason that applies especially to online work is that EU-based workers may find themselves in a global labour market, in direct competition with workers from low-wage economies in the developing world. Evidence seems to show that the insecurity of platform work, combined with the low rates of pay, contribute to what is now a well-documented feature of work in the platform economy, high rates of labour turnover.¹²⁸ It also seems that quite large numbers of people try out platform work briefly, but do not go on to work regularly in this way.¹²⁹

Amongst our interviewees, there was widespread agreement that platform work has created **positive opportunities for workers**. This opinion was expressed, for example, by representatives of both employers' and trade union organisations in **Bulgaria**, and a policy expert in the **UK**. These basic advantages for workers – flexibility and ease of access – came up in the interviews time and again, across all our case study countries. At the same time, however, there was also broad agreement that, the **advantages for platform workers were very limited**. Overall, then, there was a broad consensus among interviewees concerning the balance of advantages and disadvantages of platform work for those doing it.

For instance, interviewees usually expressed shared **concerns about low rates of pay** for platform work, especially in online work, where workers in the EU often find themselves in direct competition with workers in low wage economies in the developing world. This view was spread across our panel of interviewees, from the **UK** to **Bulgaria**. Despite this broad agreement about the problem of low rates of pay, respondents from countries with relatively higher levels of unemployment, such as **Italy** and **Spain**, nevertheless saw advantages in the opportunities provided for platform work for workers to earn extra income.

A further aspect of platform work mentioned by a number of respondents was the **requirement** for workers to be **available more or less around the clock**.¹³⁰ Again, this was especially seen as a problem in online work, where clients could be in a different time

¹²¹ Huws 2015.

¹²² Wood et al. 2017.

¹²³ Ibid.: 3; CIPD 2017: 4; Eurofound 2015a: 5; Farrell and Greig 2016: 4; Huws et al. 2016: 6.

¹²⁴ Huws et al. 2016: 45.

¹²⁵ Ibid: 45.

¹²⁶ Berg 2016: 2.

¹²⁷ CIPD 2017: 6.

¹²⁸ Ibid.: 4.

¹²⁹ Huws et al. 2016: 3.

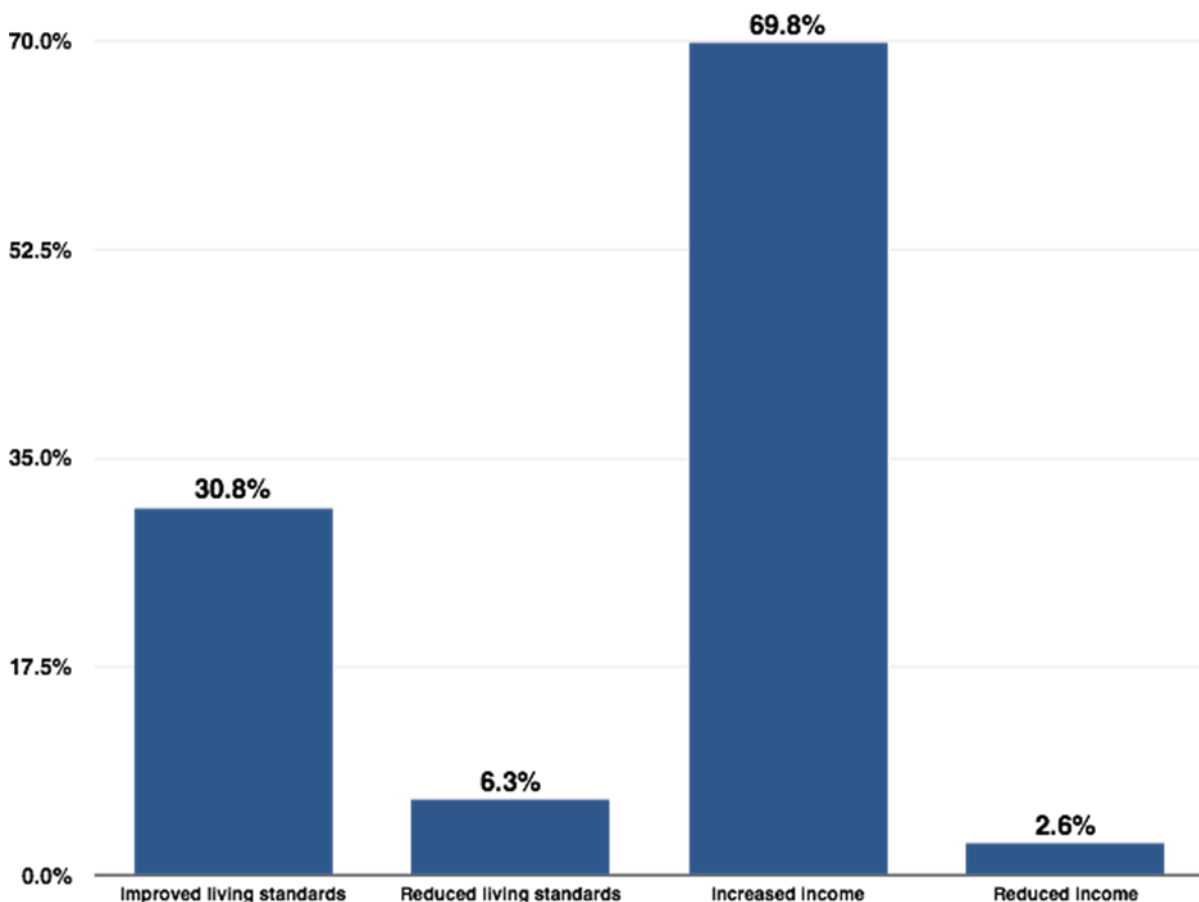
¹³⁰ Schörpf, et al. 2017; Wood et al. 2017.

zone from the workers – or even on another continent – but those workers would nevertheless be required to undertake work according to the demands of the client, regardless of the time of day or night. Despite the appearance of flexibility in choosing their hours of work, the demands of economic reality meant that, in practice, platform workers were subject to significant controls, which they must comply with in order to earn an income from their work.

Our survey provided further evidence on the advantages and disadvantages of platform work, as detailed in Figure 3. When asked about the contribution of platform work to their lives nearly 70 per cent of respondents indicated a **positive impact on their individual income**. However, only about 30 per cent of workers said that **working in the platform economy improved their standard of living**. Any perceived negative effect of the platform economy on standards of living and income was very weak.

Looking at income, the platform economy was **not the major contributing factor to individual income**. Survey respondents reported that platform work contributed to a **median share of personal earnings of 15 per cent** (10 per cent in relation to the household income). This is not to say, however, that the sample did not contain any people who acquired most of their earnings from platform work.

Figure 3: Perceived benefits of platform work for workers



For almost 60 per cent of respondents working in the platform economy was part of a daily, or almost daily, work routine. **Average weekly working hours** were **relatively high** for

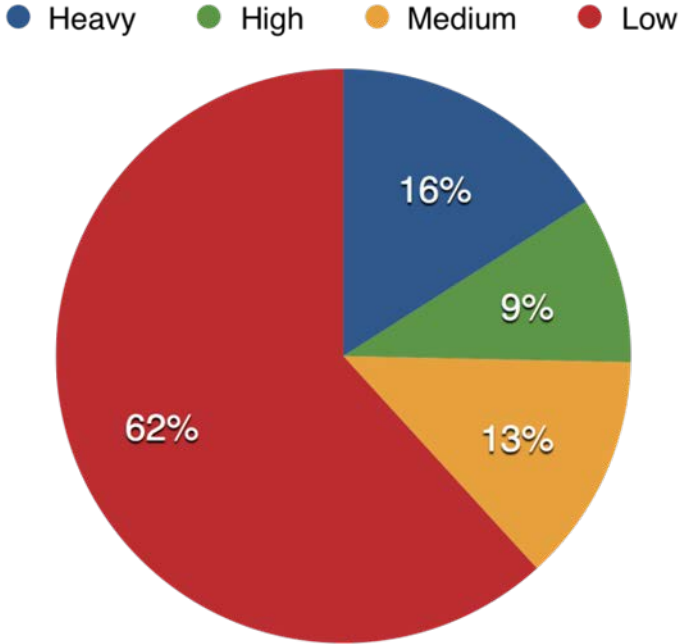
the type of the labour market in question (23 hours), with the median hourly pay being six US dollars per hour while the median lowest accepted pay was three US dollars per hour.

Working hours in the platform economy seemed to fit well with respondents' family and social commitments (nearly 88% of workers responded "very well" and "well" to the respective question), but respondents generally wanted to work longer hours through the platform economy (the average desired level stood at 31 hours per week).

According to income data, we split workers in the survey into four groups in line with their financial dependence on platform working: low level of dependence (platform working makes up less than 25% of personal earnings); medium (between 26 and 49%); high (50 to 69%) and heavy (more than 70% of individual income comes from the platform economy). The distribution of workers across these groups is reported in Figure 4. Most workers got their **income from sources other than the platform economy** (62%), a figure that accords with existing assumptions about the population of workers in the platform economy.

The proportion of those who were financially dependent on the platform economy is noticeable though, as a quarter (25%) of the sample got more than half (50%) of their personal earnings through completing online micro tasks.

Figure 4: Financial dependence on platform work



It is also worth noting that **68 per cent of respondents** had one or multiple **other jobs outside of the platform economy**. Of those, 60 per cent were in full-time employment and nearly half had a contract of unlimited duration (the share of self-employment was around 14 per cent).

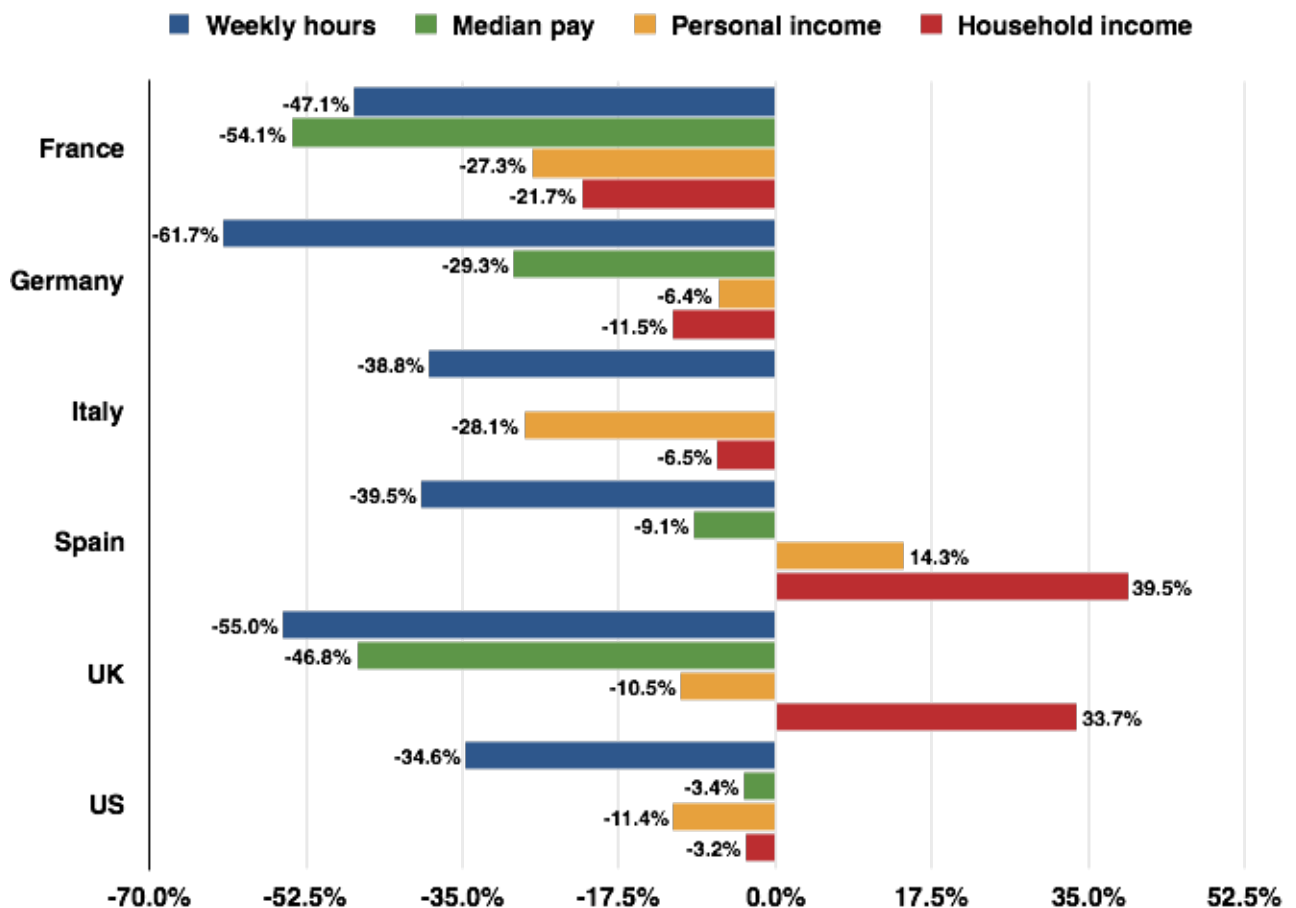
We also compared weekly hours, median pay, personal and household income data for platform workers against nationally representative OECD figures for the countries covered by our survey (**France, Germany, Italy, Spain, UK and USA**). Weekly hours were compared with the average working week, while median pay was compared with the statutory minimum wage in each country, with the exception of **Italy** where minimum pay standards are set solely through collective agreements. Personal annual income and household income were

compared with the median OECD figures for 2016, the most recent national statistics available.

Figure 5 reports these comparisons (in percentages to the platform economy data). Taking hours of work first (and reporting just those hours spent on platform work), figures on hours worked are lower than national averages. This is unsurprising given that 68 per cent of respondents had a job outside of the platform economy.

There is a striking gap between median pay levels in the platform economy and statutory minimum rates across almost all countries. In **France**, median pay in the platform economy was 54.1 per cent lower than the national hourly minimum wage, the highest observed gap followed closely by the **UK** (46.8 per cent). The situation with minimum pay standards was considerably better in **Germany**, where workers in the platform economy were paid on average 29.3 per cent less than the statutory minimum wage. In **Spain**, the difference was only 9.1 per cent, with the US being the example of the platform economy with pay levels closest to the national minimum wage. It should be noted though that in countries like **France** and **Germany** collective agreements often set minimum wage levels significantly above the national threshold, while in the **USA** minimum pay levels vary across the states and are different from the national minimum wage.

Figure 5: Cross-country comparisons



In terms of personal and household income, **respondents generally earned less than the respective national median**, with the exception of **Spain**, where those performing platform

work were better off both in terms of individual and gross median household income. **UK** respondents were in a better position with regard to household income only.

3.2.4. Job quality and wellbeing

Numerous concerns have also been raised over **working conditions** in the platform economy. Anecdotal evidence and journalistic accounts point to widespread problems with non-payment of wages, poor administrative and organisational arrangements, lack of training, discriminatory practices, and lack of attention to occupational health and safety, professional liability and insurance, and other regulatory issues.¹³¹ Research has also looked at working conditions on platforms such as AMT, CrowdFlower and Upwork, which suggests that a substantial number of workers habitually work for very long periods, often at unsocial hours or at night, according to when work is available.¹³² Generally, though, working conditions – and, much else about the working lives – of platform workers remains significantly under-researched.

Among our expert interviewees, there was a general acceptance that many platform jobs would be likely to be at the **bottom end of the labour market**. While some interviewees took the view that “*any kind of employment [is] better than no employment*”, others were more sceptical. One told us that labour platforms had “*demeaned the whole basis of work ... For years, we’ve talked about the race to the bottom — well, now, it’s arrived*” (Expert interview, UK).

In this context, respondents recognised the difficulty of devising appropriate regulation. Representatives of employers, as well as unions, recognised the difficulties of regulating platforms, but nevertheless saw a need for some form of regulation to protect platform workers against bad employment practices, poor working conditions and job insecurity, something that has also been recognised by the European Parliament.¹³³ Many of our interviewees were particularly concerned about the growth of self-employment, of which platform work was seen to be a significant and growing component. Here, interviewees often saw the advantages of self-employment in terms of **flexibility** as somewhat overshadowed by disadvantages in terms of **living standards, earnings inequalities, in-work poverty and social polarisation**. Once more, then, evidence from our panel of interviewees broadly coincided with previous research.

Respondents to our survey reported mixed experiences of working in the platform economy. Between one third and one half reported delayed, reduced or non-payment of fees “sometimes” or more often (Figure 6). Fewer reported “aggressive communication”. Indeed, the figures, here, are similar to those experienced in employment more widely.¹³⁴ But many more reported the experience of needing more time to complete a task than specified by a client.

Turning to the quality of work, evidence from our survey found mixed results. While there were relatively high levels of **satisfaction** with the **work itself, variety of tasks, and, especially, time flexibility**, workers report much **lower levels of satisfaction with career prospects, pay levels, and job security** (Figure 7) – although, these latter figures are similar to levels of dissatisfaction with prospects for career advancement found in wider representative surveys such as the European Working Conditions Survey.¹³⁵

¹³¹ Berg 2016: 5; Brawley and Pury 2016: 532; Calo and Rosenblat 2017: 1; Chen et al. 2015: 495; Hayns 2016: 1; Huws 2015: 4; Irani and Silberman 2013: 3; Zentz 2015: 3.

¹³² Wood et al. 2017.

¹³³ European Parliament 2017b: para 37.

¹³⁴ EWCS 2015.

¹³⁵ Ibid.

Figure 6: Experience of unscrupulous employers

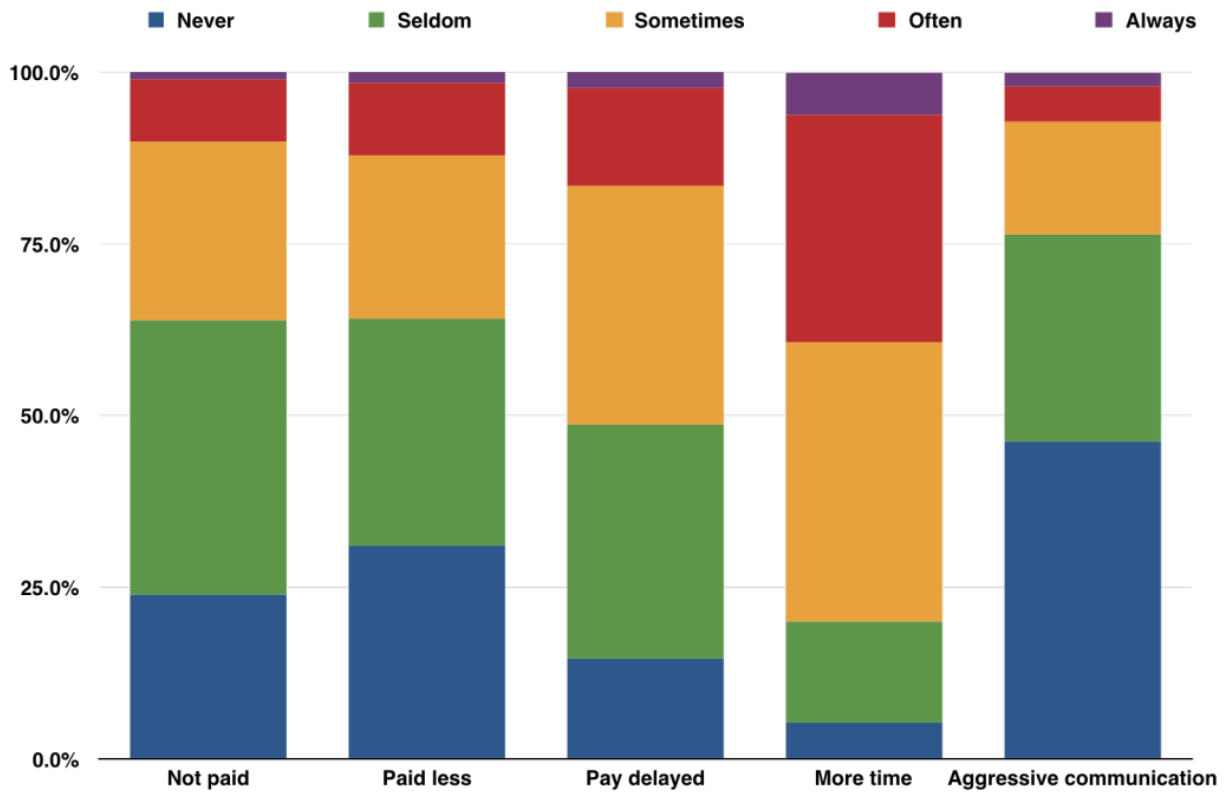


Figure 7: Job satisfaction

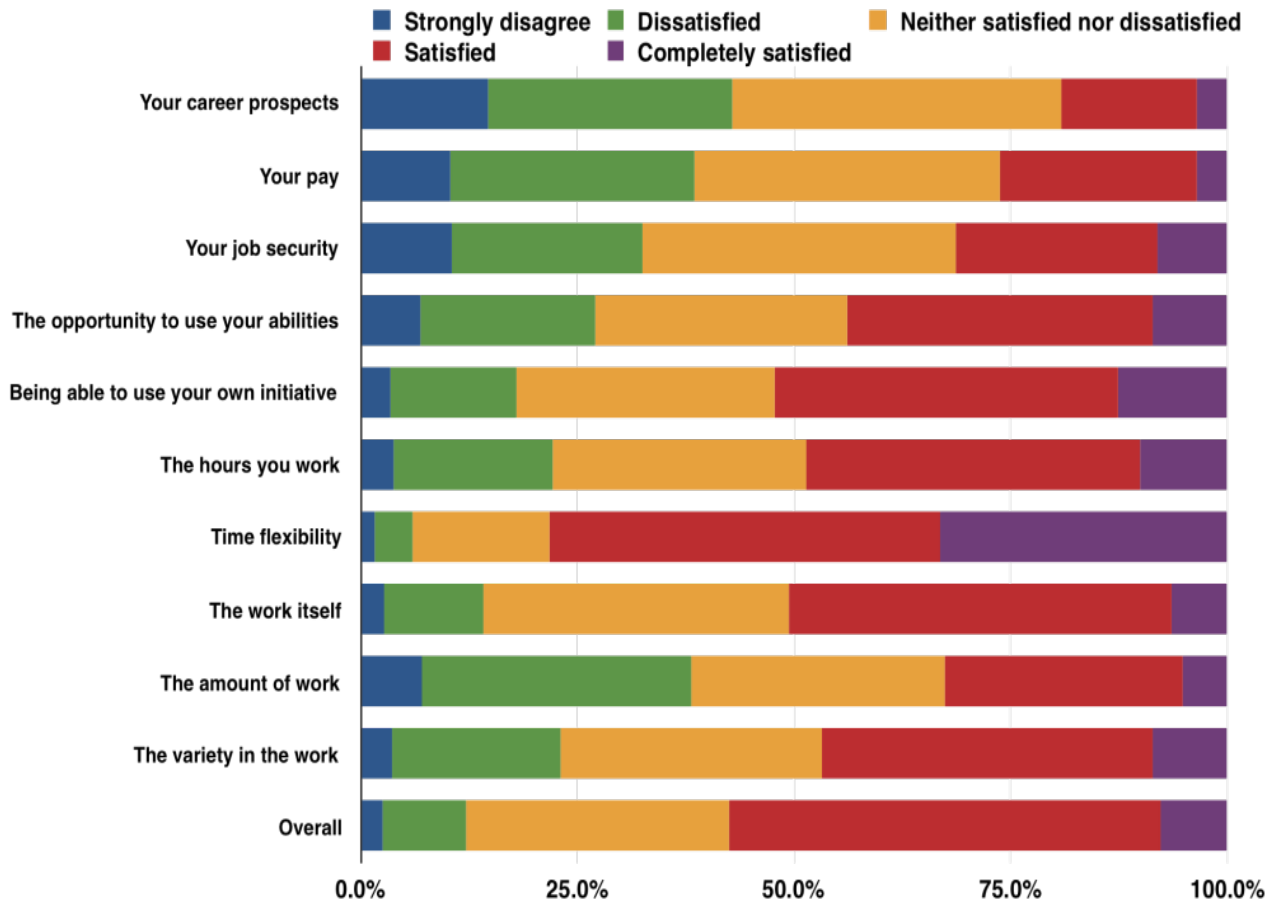
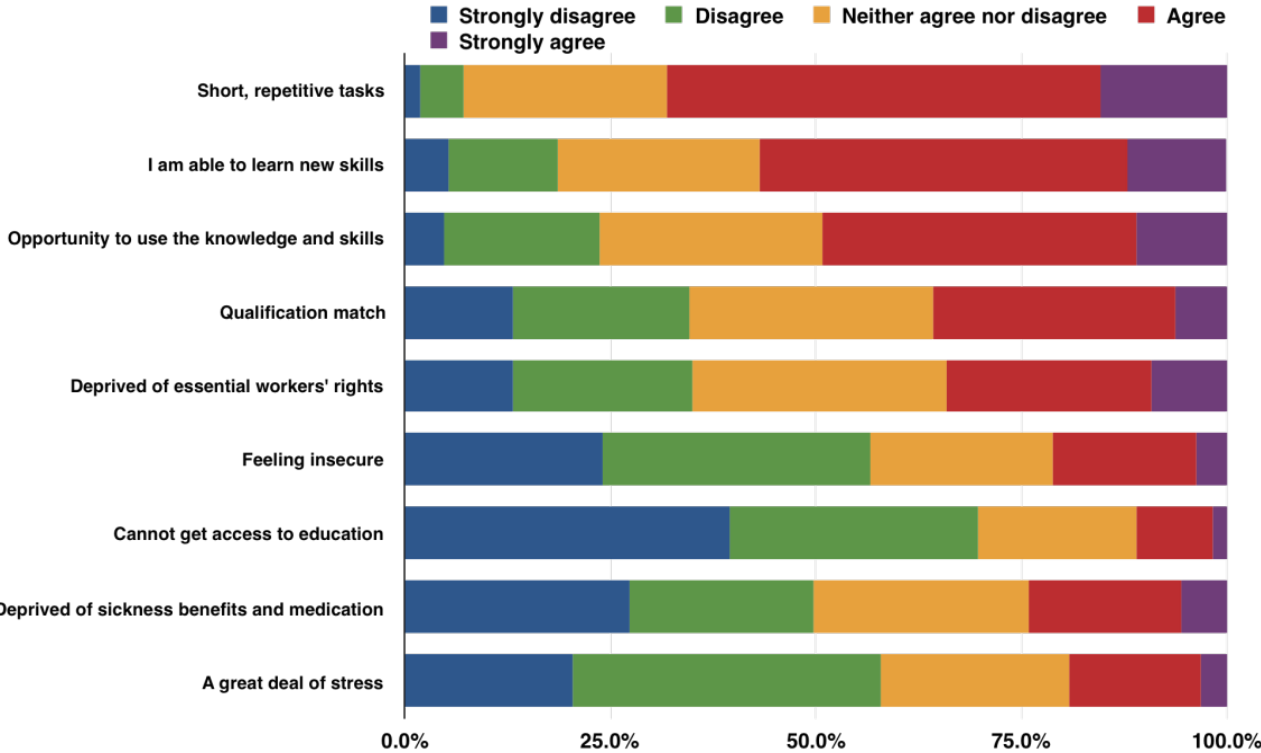


Figure 8: Attributes of job quality



Survey respondents also reported the **repetitive, routine nature of tasks**, counterbalanced to some extent by **opportunities to learn new skills and to use existing knowledge and skills**. However, platform workers were far less likely to report the availability of such opportunities (20% to 25% less) compared to respondents across other EU wide surveys.¹³⁶

Respondents did report some feelings of being **deprived of essential employment rights**, to some degree, but this did not extend to social rights such as education, benefits and medical care. Nor did respondents feel particularly insecure and stressed (Figure 8).

Working in the platform economy, according to our respondents, was also **not associated with** high levels of **stress or emotional disturbance**, except for a general feeling of **worry** (see Figures 9 and 10).

¹³⁶ Ibid.

Figure 9: Work stress

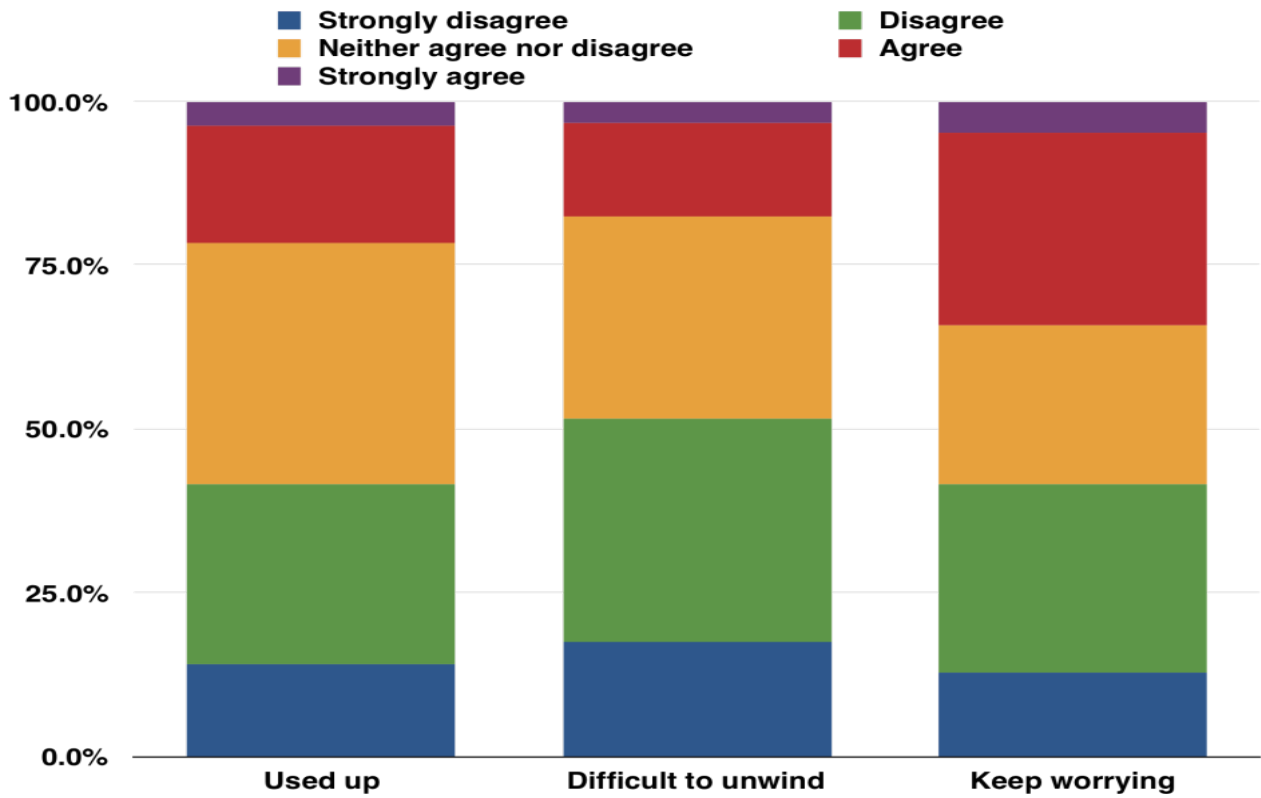
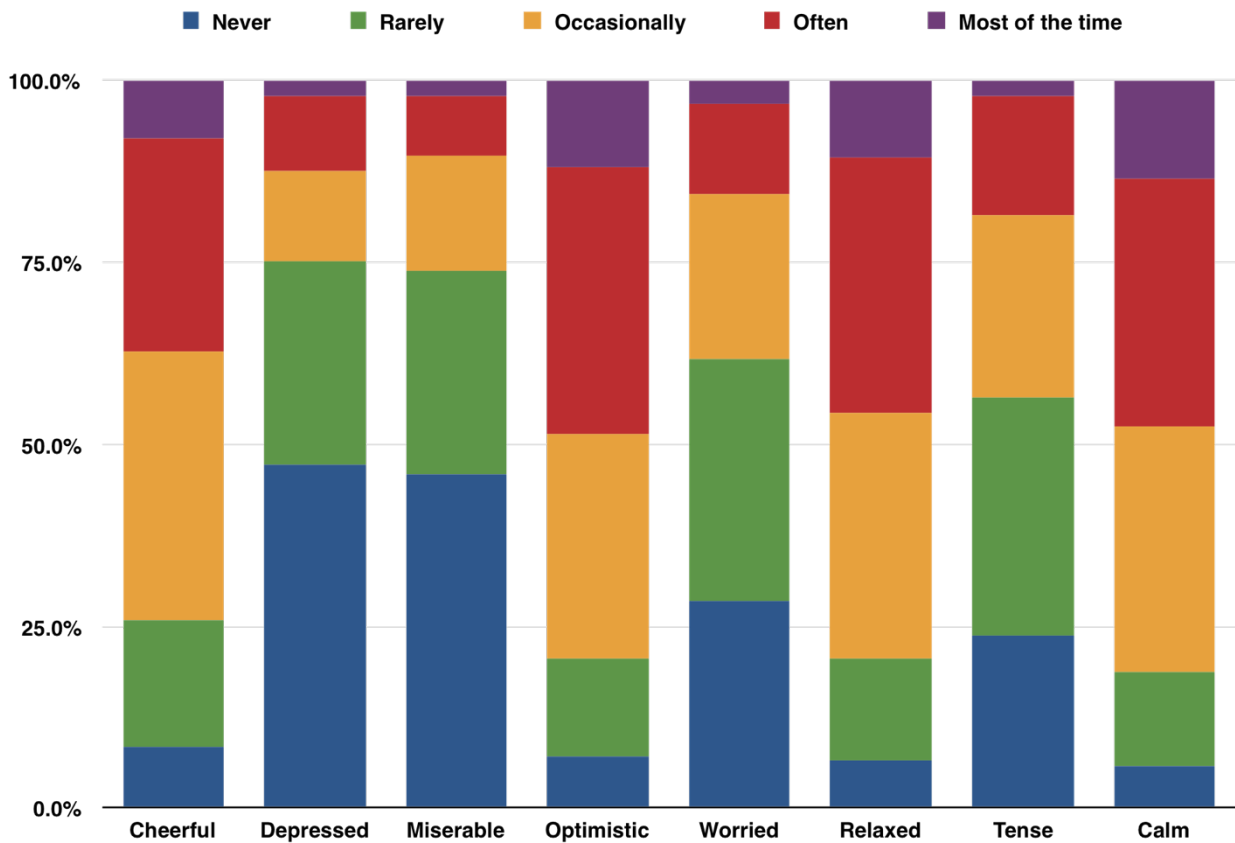
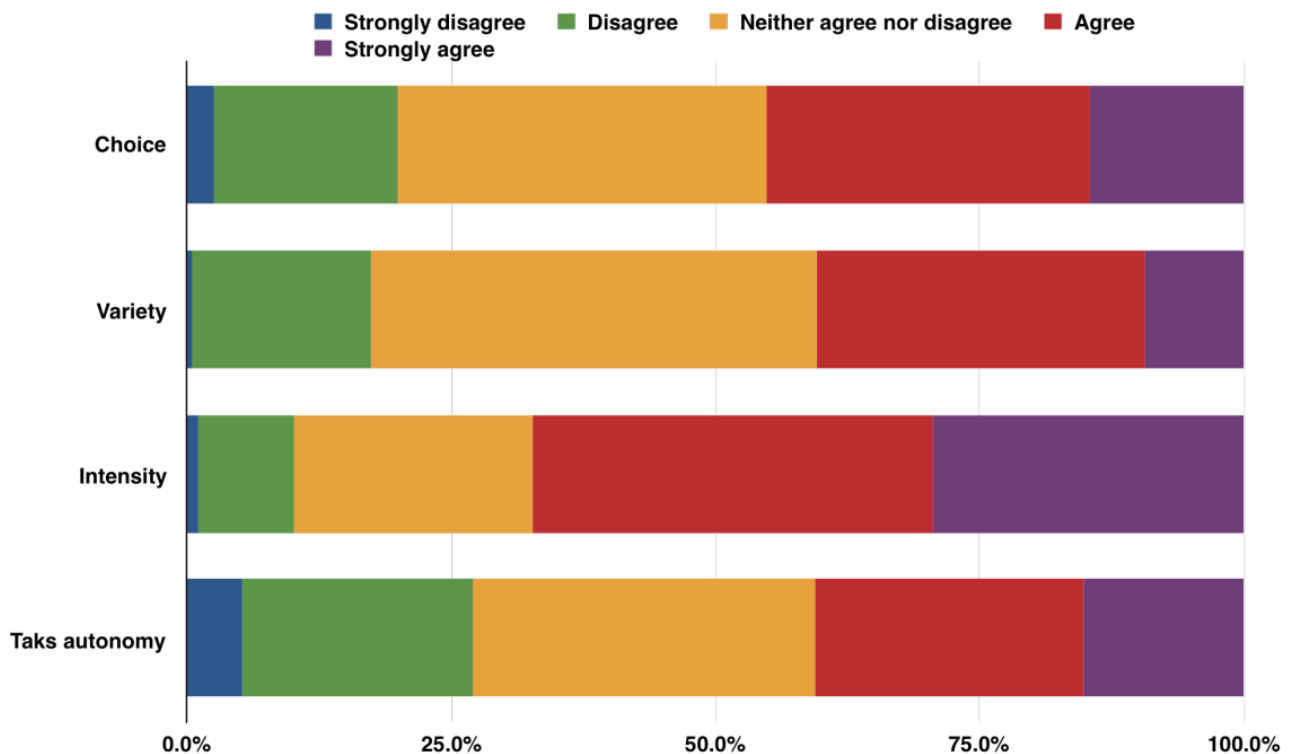


Figure 10: Emotional wellbeing



One of the widely-promoted features of the platform economy, namely work autonomy, appears to have been exaggerated, as shown in Figure 11. In reality, **workers have very limited influence** over the variety of work and tasks themselves whereas the only serious influence they can exert is over the intensity of work.

Figure 11: Job autonomy



3.2.5. Social protection for platform workers

Perhaps the most complex and disputed issue investigated by our research was the question of what social protections are appropriate for workers in the platform economy, and how any such protections might be arranged.

In terms of access to social protections, the main issue for those working in the platform economy was that the legal status of platform was usually construed as **self-employed**, rather than as worker or employee. As a result, those working in this area find themselves placed outside of a range of social protections for which the gateway is formal employee (or worker) status. As one respondent put it:

“Up to now only employees were considered by law as vulnerable who would need protection. Most self-employed though are not protected against the usual risks of a working life. Half of self-employed in Germany have no old age security and don't pay any contributions in any kind of pension scheme. Many don't have a health insurance either which is supposed to be compulsory. The lack of social security for self-employed is not a new phenomenon but it has gained more public attention with the digital economy and crowd working” (union representative, Germany).

Thus, the growth of platform work is reproducing gaps in the coverage of social protections for the self-employed, which have already been recognised as a growing problem across employment more generally.¹³⁷

Moreover, our interviewees saw the issue of **social protections** not only as a problem for the individuals concerned, but as **a potentially significant financial burden for wider society if left unresolved**. Interviewees from several countries emphasised the long-term problems created if large numbers of younger workers enter upon a career typified by forms of insecure employment, or working under self-employed classification, and as a result fail to make sufficient contributions to old age pensions or other social protection arrangements. Social protections were seen by such respondents not simply as protections for the individual that are provided socially, but, in an important sense, as protection for society.

It is sometimes argued that provision for social protections for such workers is unnecessary, on the grounds that – so it is claimed – most platform workers have another job, which will secure them access to social protection schemes without the need for any revision to existing arrangements. This is the so-called **“pin money” argument**, which was once used to describe the lower earnings of women workers, and that is now used to justify low pay and lack of social protections for platform workers.¹³⁸ There are two clear problems with this approach. First, as we showed above, around a **quarter of the platform workers** we surveyed were in fact **financially dependent upon platform work**. It can be presumed that many of these did not have another “main job” from which they derived access to social protections. The second problem is that the pin money view of **social protections** makes the assumption that, for those platform workers who do have **another source of income, this comes from a job of the standard employment model** – since legally framed employee status is often the gateway to social protection schemes. As will be shown below, however, our survey findings suggest that, for a significant number of platform workers, their other source(s) of income may well be other forms of insecure, non-standard employment.¹³⁹ Further, interviewees from a leading work platform expressed the view that in areas such as taxi-type driving work, where regulatory requirements such as public vehicle licencing place a premium on drivers committing to long periods of driving, then engagement in platform driving work makes it *less* likely that such insecure workers will have an alternative, secure form of employment. Consequently, the expectation of further growth in platform work, alongside the continued growth of other forms of non-standard work, means that ensuring social protections for platform workers is of increasing importance. In this context, the pin money argument should be set aside for platform work, as it was previously for women’s employment.

Reflecting these new realities, there was considerable agreement among our interviewees that **a lack of effective social protection** is a significant downside of platform work, and that forms of platform work generate insecurities because of the lack of a direct link between this work, payments into social security systems and protections. These findings support the view expressed by the European Commission to the effect that problems in social protection coverage for platform workers may discourage participation and thereby unduly restrict the potential for growth of this important new sector.¹⁴⁰

Our survey provided more direct evidence of the experience of access to social protection and the perceptions of those working in the platform economy towards protection. As Figure 12 shows, platform workers did not, on average, feel worried about losing their main source

¹³⁷ Eurofound 2017a: 47; European Commission 2017d, 2017e; Matsaganis et al. 2016; Spasova et al. 2017.

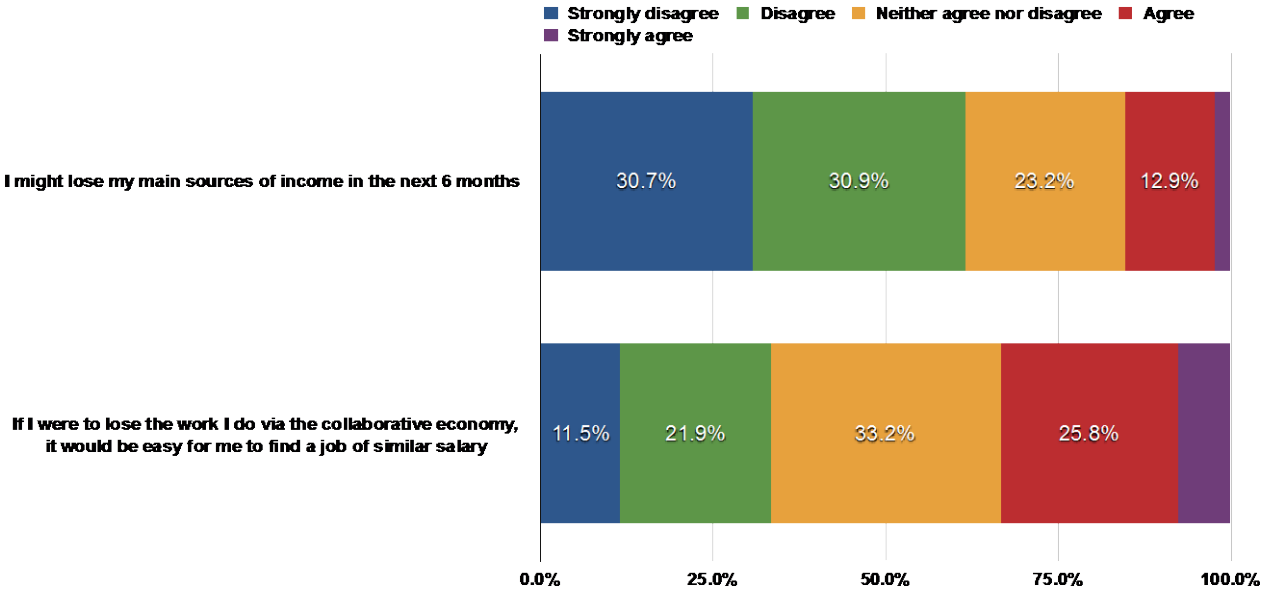
¹³⁸ Berg 2016: 18-19.

¹³⁹ See also, Huws et al. 2017.

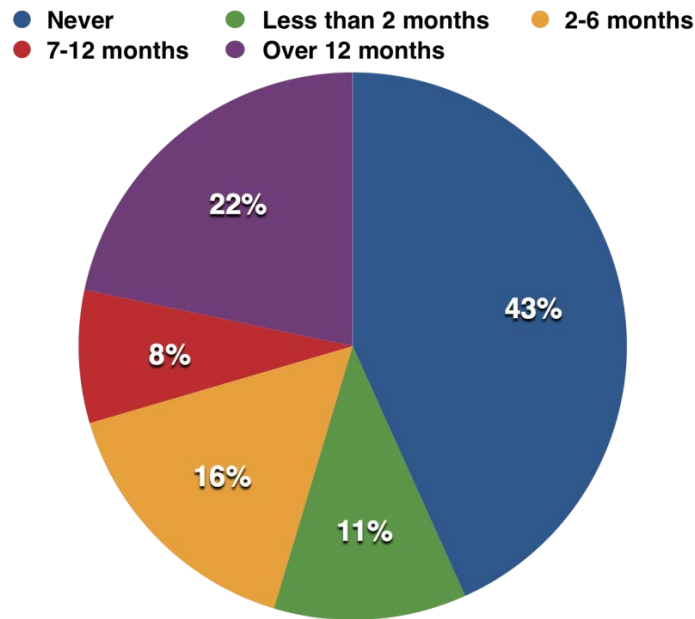
¹⁴⁰ European Commission 2017d, 2017e.

of income in the next 6 months, but respondents expressed **some concerns with regard to the chances of finding similarly paid tasks to the ones they do through the platform economy**. Around a third (33.3%) of platform workers feared losing their job, a level that was comparatively high when compared to workers in more traditional sectors of the economy; for example, just 16 per cent of workers in the 2015 EWCS reported that they feared losing their job.

Figure 12: Job security



Building on the bank of questions about employment and financial circumstances, the survey inquired into the host of issues associated with the social protection of workers in the platform economy. One of the key findings was that a significant proportion of respondents had been **unemployed in the past 5 years** (see Figure 13).

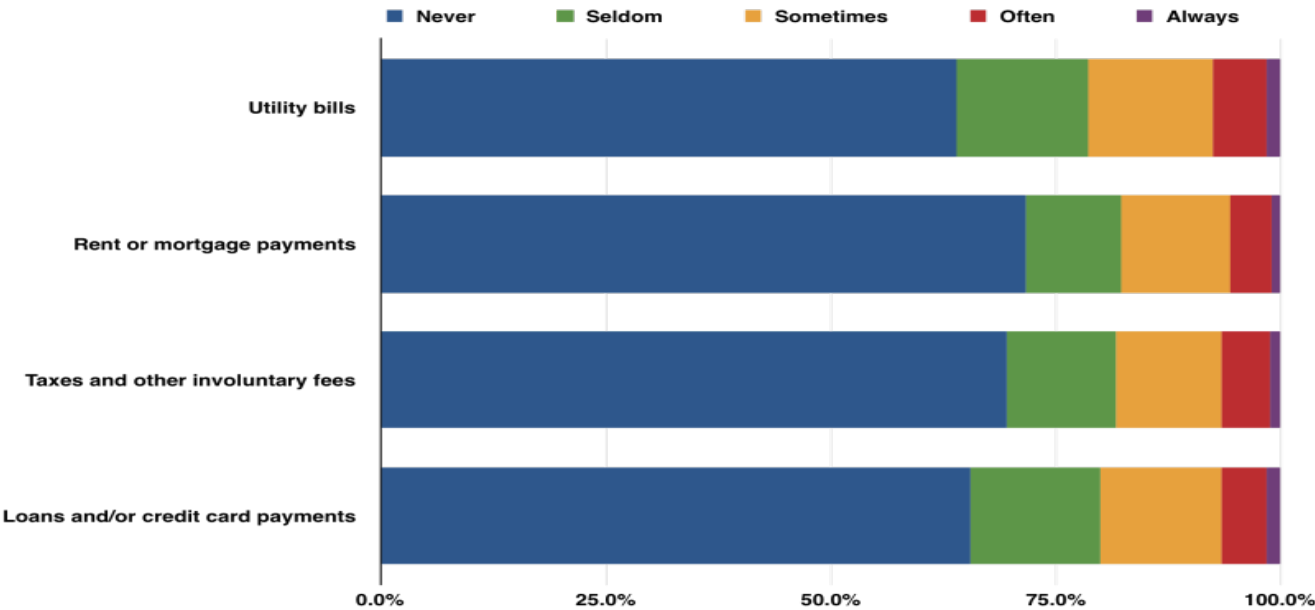
Figure 13: Unemployment (duration)

For three in ten platform workers spells of unemployment had been of quite long duration, with 8 per cent reporting that they had been unemployed for between seven and 12 months and 22 per cent reporting that they had been unemployed for more than one year. This stands in stark contrast when compared with the 5.8 per cent average unemployment rate among the OECD countries as of July 2017.¹⁴¹

Strikingly, **only just over a third (35.5%)** of platform workers were currently **paying into a personal pension**, a worryingly low proportion given the average age of respondents. At the same time, on average, workers in the platform economy were not behind on making compulsory payments (e.g. bills, mortgage payments etc.), as shown in Figure 14.

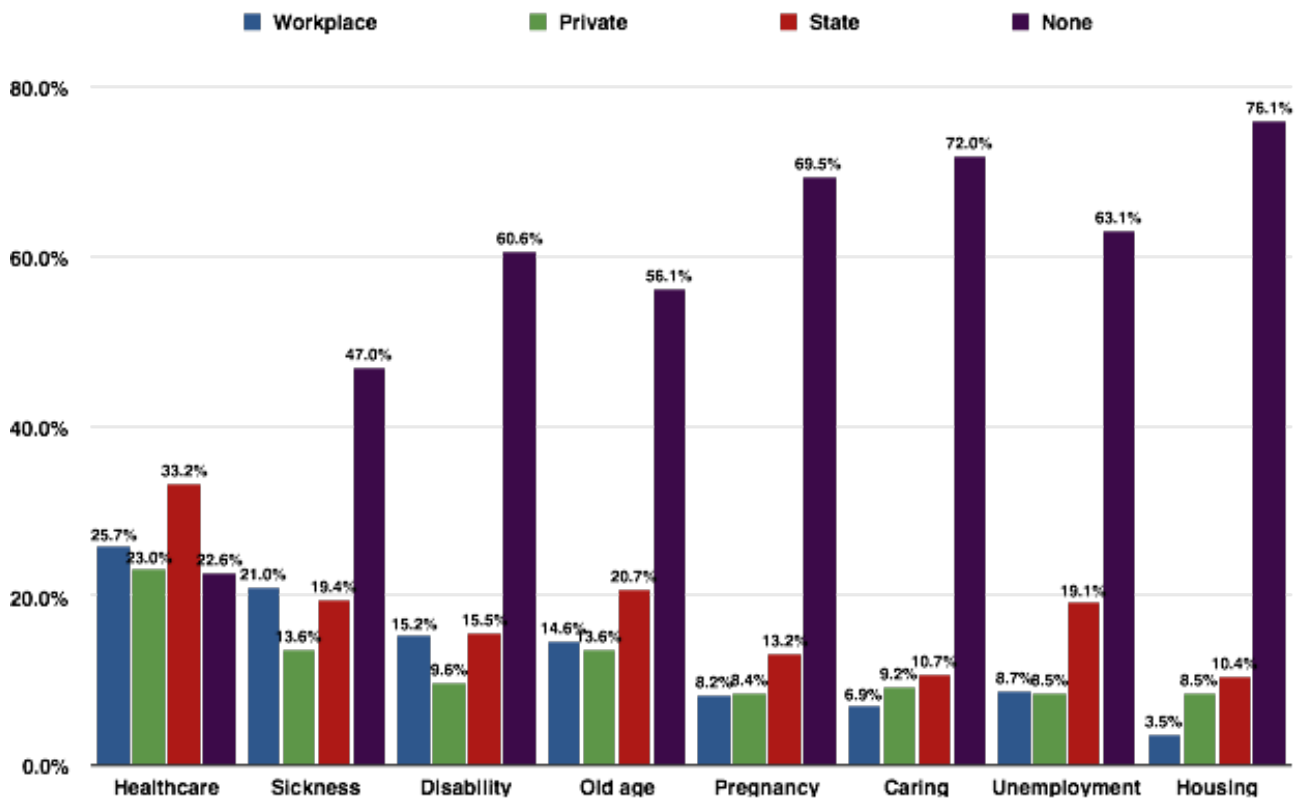
¹⁴¹ According to the most recent OECD harmonised long-term unemployment rates (December 2016, <https://data.oecd.org/unemp/long-term-unemployment-rate.htm>), 30.6 per cent of those unemployed in the OECD had been so for 12 months or more. This indicates that around 1.8 per cent of the working population in the OECD is classified as long-term unemployed. This suggests that collaborative economy workers in our sample are much more likely to have experienced long term unemployment than the working population in the OECD as a whole.

Figure 14: Being late making compulsory payments (average)



Respondents were asked whether they had access to a host of social protection schemes along a spectrum, from healthcare insurance through to protection against unemployment and housing benefits. Figure 15 reports the share of respondents who had access to the broader types of social protection schemes: workplace based, private and state funded. Apart from healthcare (and to an extent sickness benefits), which are more widely available to respondents, other types of **social protection schemes were not accessible by those working in the platform economy**. The least protection related to schemes that cover pregnancy/childcare, caring responsibilities and housing benefits. These schemes were reported as not available for nearly 70 per cent of platform work respondents.

Figure 15: Access to social protection schemes



Once more, these findings accord with previous research.¹⁴² It is clear that platform workers share with other forms of non-standard workers a considerable risk that they will fall outside the scope of important social protections. Recently, the European Commission has begun consultations over the best way to close such gaps, though, as of yet, clear policy recommendations seem some way off.¹⁴³

3.2.6. The experiences of different clusters of workers in the platform economy

This section looks at subgroups (clusters) of workers within our survey sample, and distinguishes between those who rely on platform work from those whose income derived mainly from other sources. The analysis is based on a number of indicators:

- Current employment status - whether respondents had jobs (one or more) outside the platform economy.
- Unemployment – whether respondents had experienced either short (less than six months) or long (over six months) spells of unemployment in the past five years.
- Reliance on platform work - contribution (as a %) to personal income.¹⁴⁴
- Financial security - whether participants covered essential domestic payments easily or with difficulty.

¹⁴² Matsaganis 2016; Spasova 2017.

¹⁴³ European Commission 2017d, 2017e.

¹⁴⁴ Four categories were utilised: low (less than 25 per cent of income from platform), medium (between 25 per cent and 50 per cent), high (50-70 per cent) and heavy (more than 70 per cent).

Using Latent Class Analysis (LCA), a technique that recovers statistically independent clusters from the population in question, **three clusters of workers were identified:**

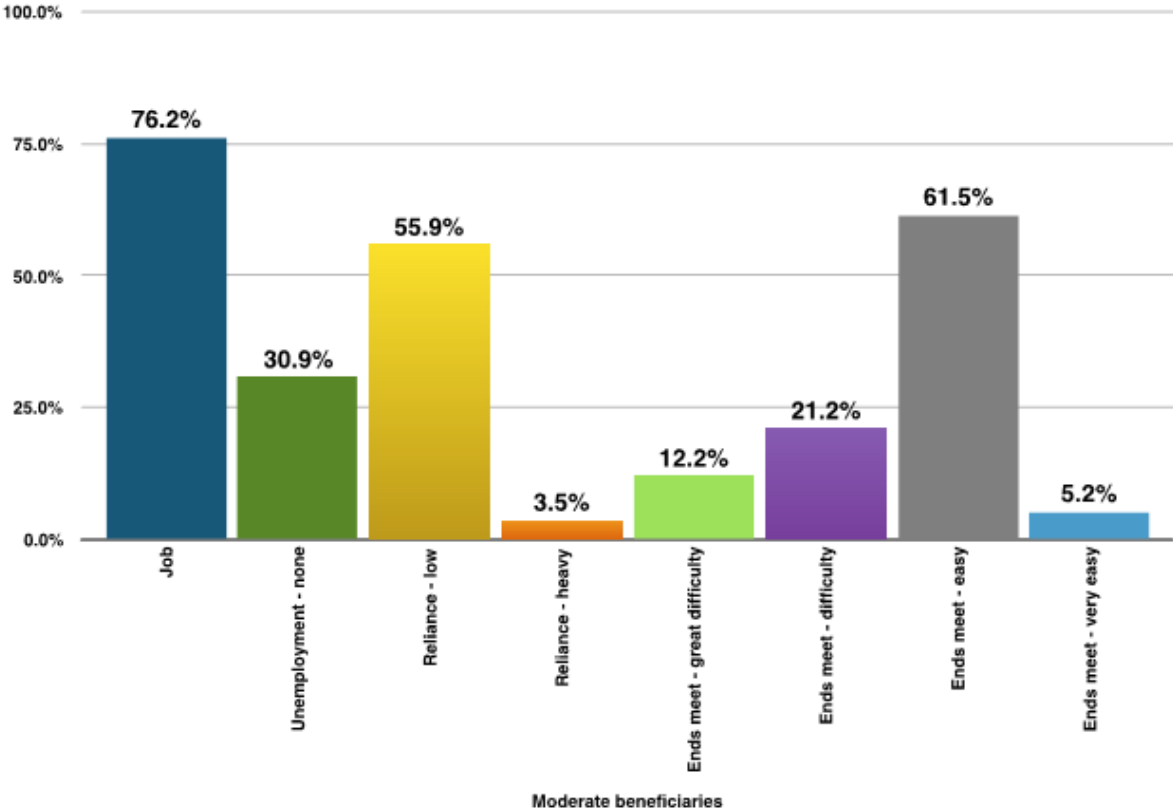
- **moderate beneficiaries** (37.3% of our sample)
- **random surfers** (38.2% cent)
- **platform-dependent workers** (24.5%)

A detailed description of these clusters is provided below.¹⁴⁵

Moderate beneficiaries

This cluster (see Figure 16), which accounted for 37 per cent of our sample, is composed of workers who had jobs outside the platform economy. While there is a **high probability** that these workers had been **unemployed for less than six months** over the past five years, they ordinarily encountered no difficulties in making essential domestic payments. The level of earnings generated through platform working for moderate beneficiaries was low, as there was only a 3.5 per cent chance that workers in this cluster earned more than 70 per cent of their income from the platform economy. The cluster of moderate beneficiaries exemplified a group of workers who used the platform economy infrequently, perhaps as a reliable source of an additional income, but whom were not reliant on it. Whereas in the past they may have experienced difficult times, with a 53.1 per cent chance of short-term unemployment (not shown in Figure 16), these workers gained some benefits from the platform economy.

Figure 16: Moderate beneficiaries cluster

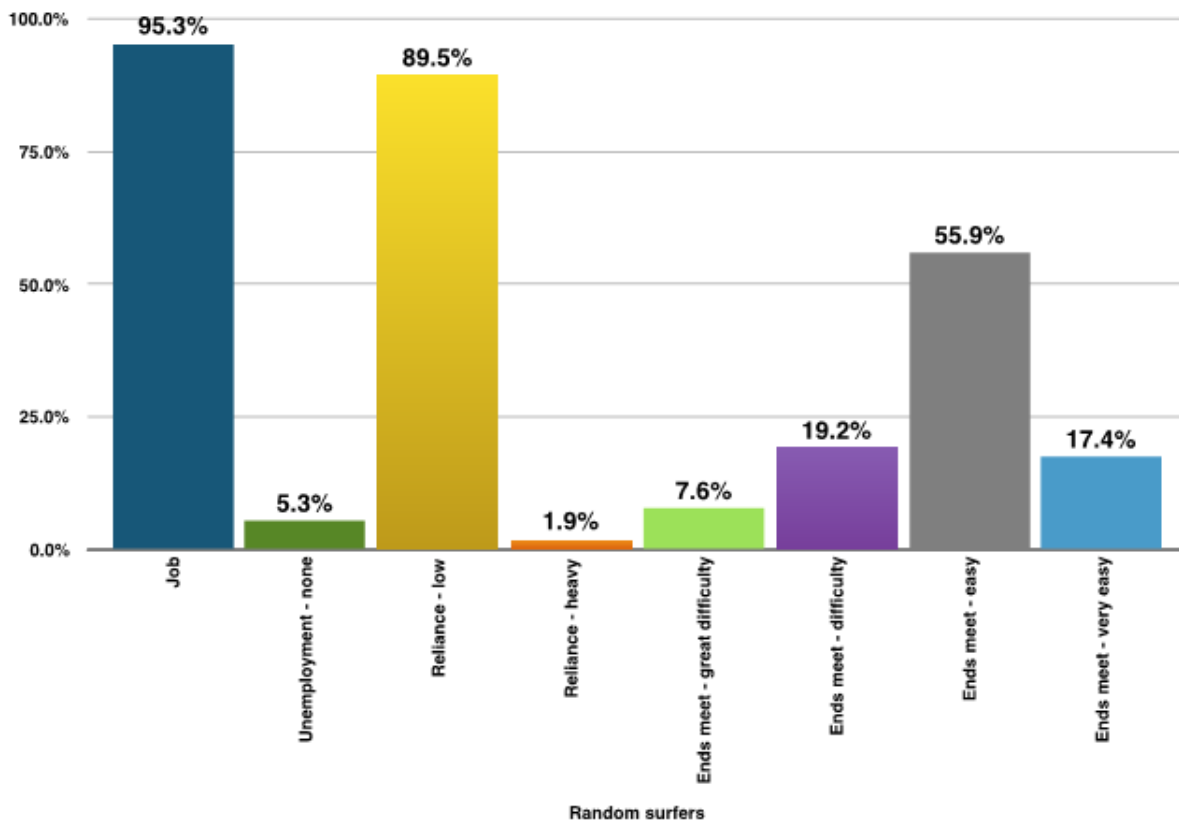


¹⁴⁵ cf. Eurofound 2017a: 17-26.

Random surfers

The main differences between this cluster (Figure 17) and the *moderate beneficiaries* were found in their higher probability of **previous long-term unemployment** (80.6 per cent – not shown in Figure 17), and their **lower financial dependence on platform work**. Nearly nine out of every ten (89.5%) of *random surfers* earned less than a quarter of their income from this source, with only 1.9 per cent deriving 70 per cent or more of their income from platform work. Nearly all (95%) of these workers had another job, compared to 76.2 per cent of moderate beneficiaries, and they were therefore less dependent upon platform working for their income. Like the moderate beneficiaries, random surfers seldom experienced problems making domestic payments. This cluster thus encompassed workers who were relatively independent from the platform economy and seldom reliant on micro tasks for additional income. *Random surfers* made up 38 per cent of our sample.

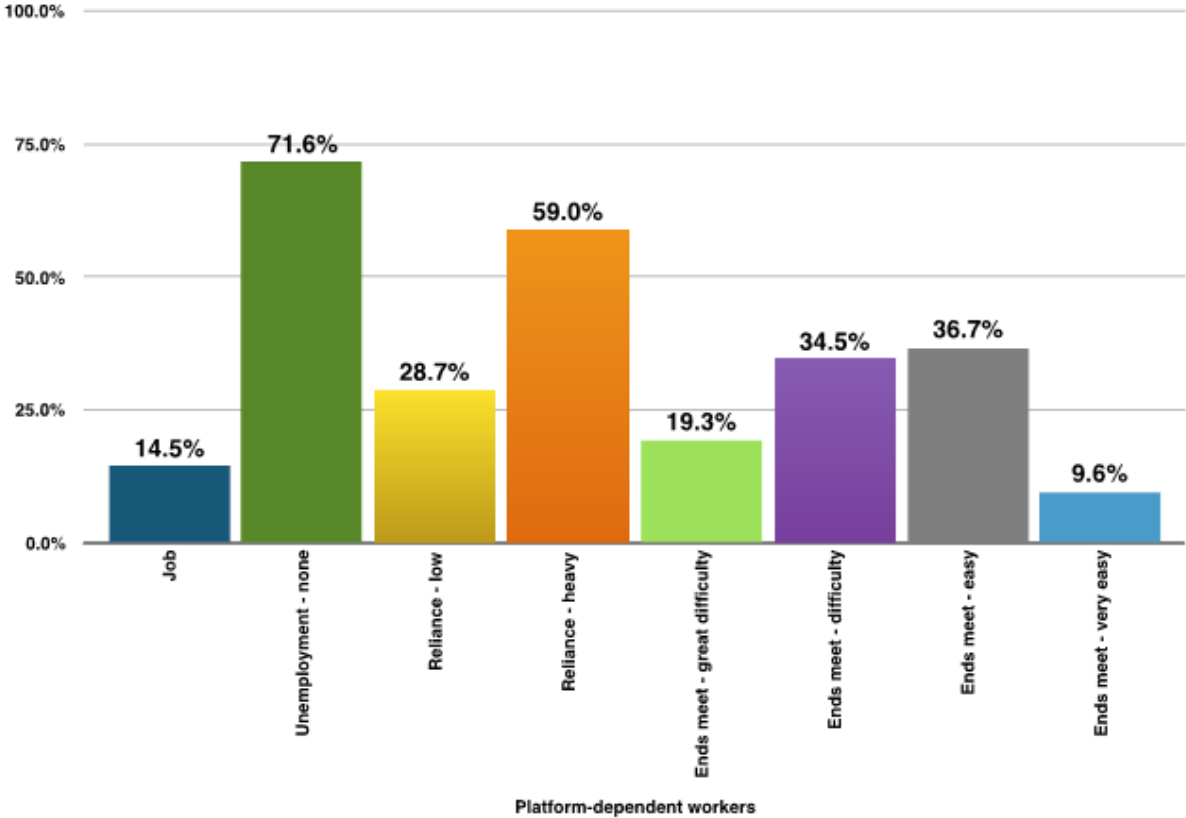
Figure 17: Random surfers cluster



Platform-dependent workers

Platform-dependent workers (Figure 18) accounted for a quarter of our sample and they **derived a larger share of their income** (above 70 per cent) from platform work. They were heavily reliant on platform work as their main source of income. Platform-dependent workers usually had no other form of employment, although they were also unlikely to have experienced periods of unemployment. Platform-dependent workers also had significantly more difficulty in making essential domestic payments than those in the two other clusters.

Figure 18: Platform-dependent workers cluster



Having identified these clusters of workers, differences in average annual income, job quality and access to the social protection schemes were estimated. The data demonstrated a strong association between personal income and workers’ reliance on the platform economy, with *platform-dependent workers* on average **worse off** than *moderate beneficiaries* and *random surfers*. This tendency held for both personal income (Figure 19) and household income (Figure 20).

While differences between the clusters in relation to income were evidently significant, we carried out further analysis to identify factors that might explain such a striking gap. Linear regression analysis was performed to account for between country variation in average income levels and differences in demographics between respondents (gender, age and education were included in the regression equation as control variables alongside country fixed effects). Figure 21 draws on raw regression estimates, reporting differences between average scores for platform-dependent workers from those of moderate beneficiaries and random surfers. *Platform-dependent workers* were, on average, 43 per cent worse off than *moderate beneficiaries* and 62 per cent worse off than *random surfers* in terms of net personal income, a difference that was statistically significant. Differences in household income were narrower, at 12.7 per cent and 29.3 per cent respectively, with only the latter being statistically significant. Between-cluster variation in job satisfaction, work autonomy and job stress was moderate. **Platform-dependent workers** were 4.4 per cent **less satisfied with jobs** conducted via platforms than *random surfers*, but reported **greater autonomy** in terms of the tasks conducted than did moderate beneficiaries (both effects were statistically significant). On average, **platform-dependent workers** were **significantly less stressed** than random surfers (a 6% gap).

Figure 19: Personal earnings by cluster

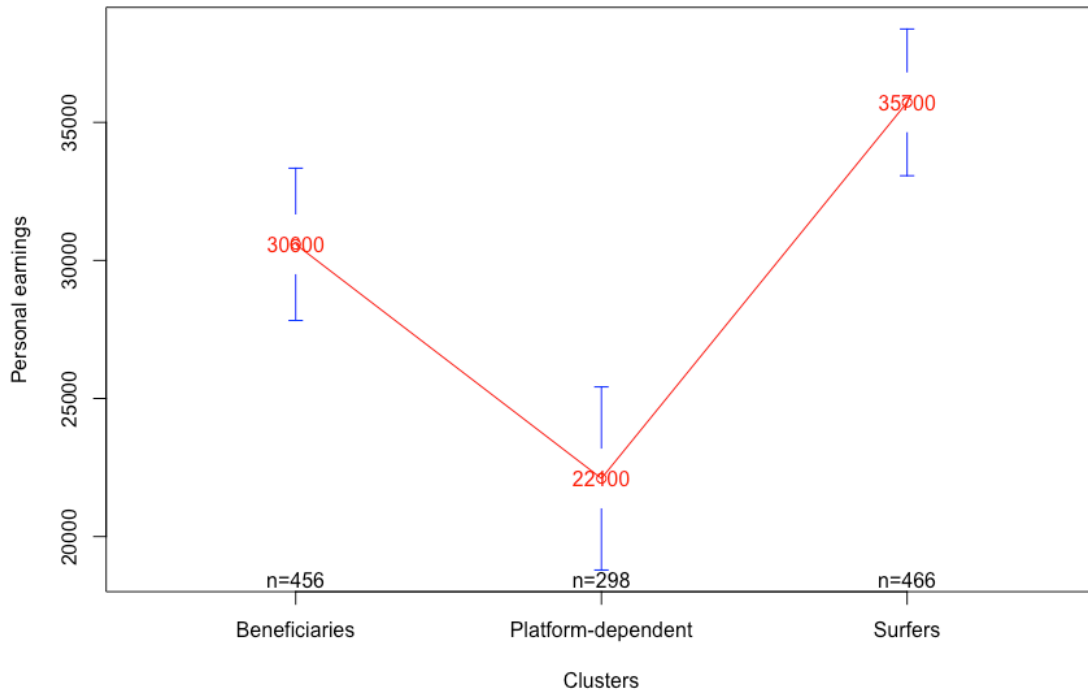


Figure 20: Household earnings by cluster

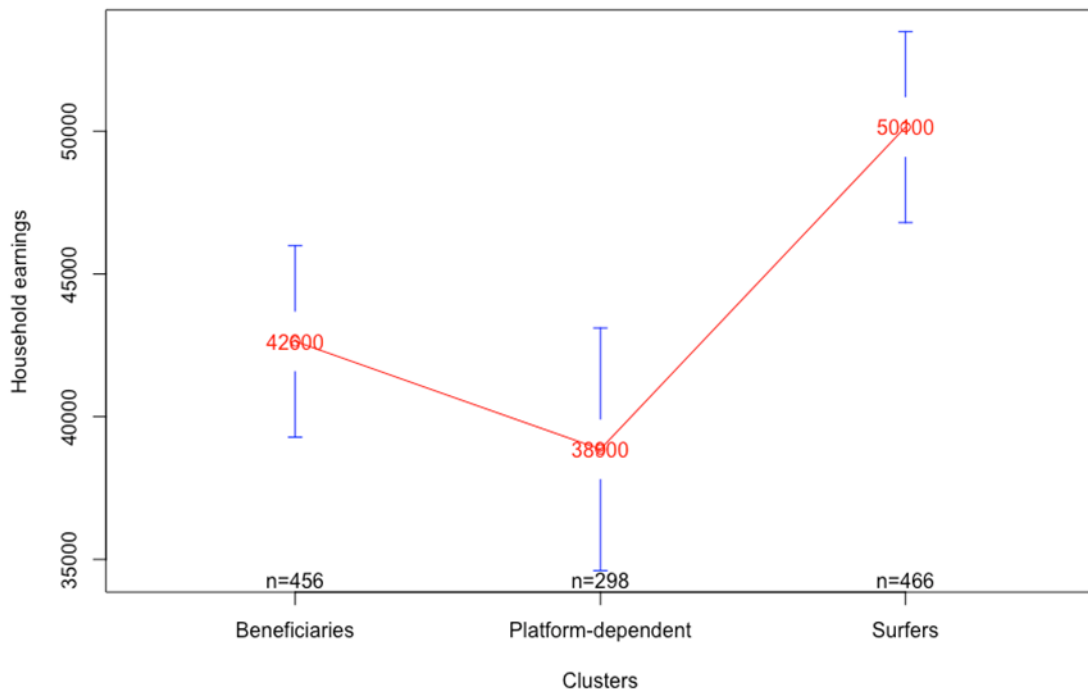
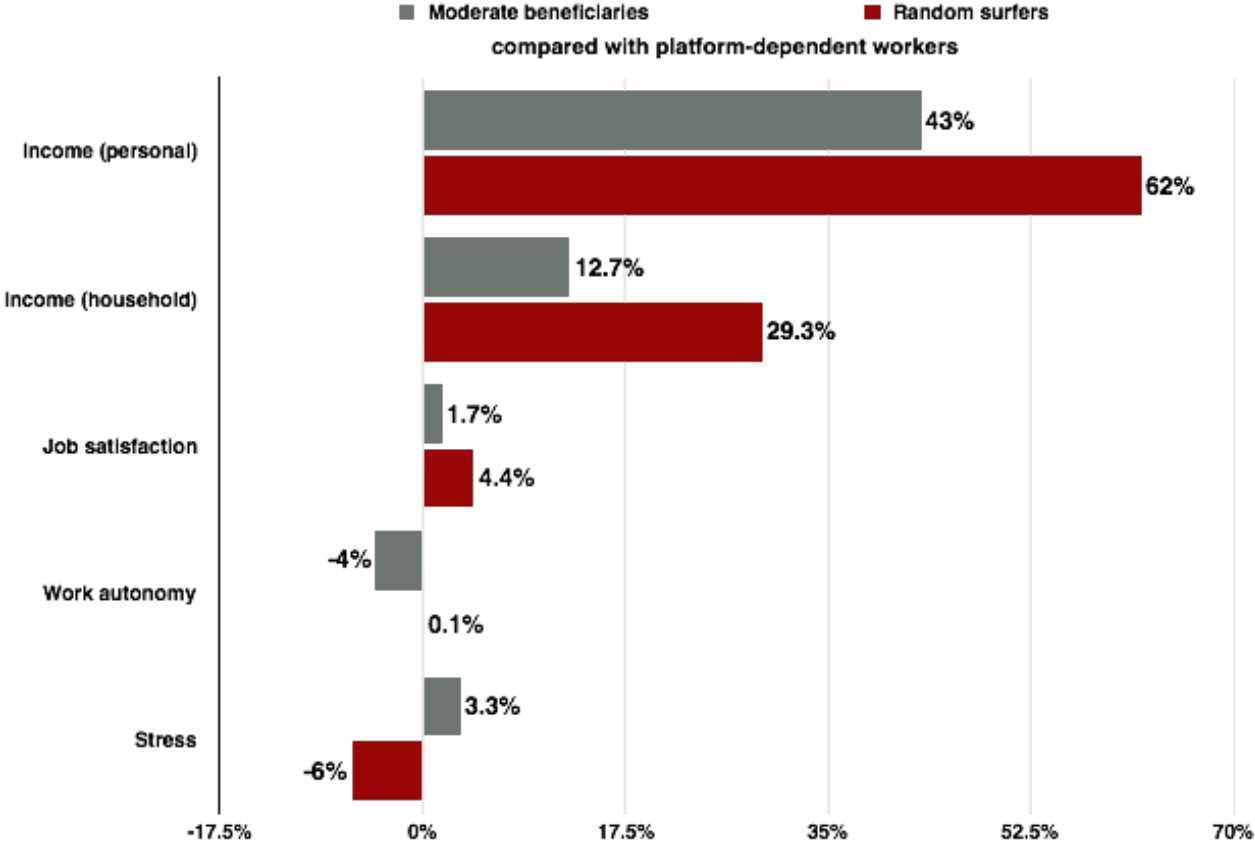


Figure 21: Regression estimates relative to platform-dependent workers (income, job satisfaction, work autonomy and stress)

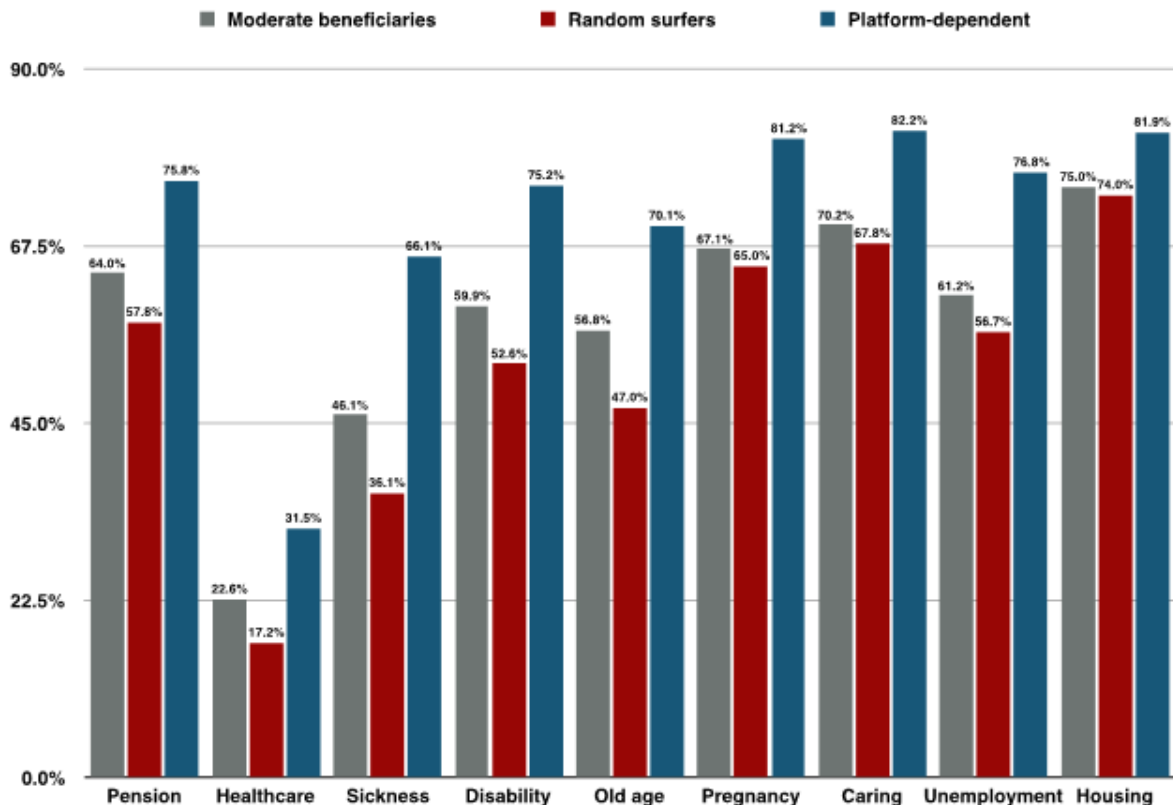


Clusters were also compared in terms of average access to social protection schemes. Using multiple regression with Ordinary Least Squares (OLS), we compared the number of social protection schemes to which the different clusters had access. Out of eight schemes, we found that, on average, platform-dependent workers had access to 0.8 fewer schemes than moderate beneficiaries, and 1.3 fewer than random surfers.

Although these findings show **clear differences** in the levels of **social protections** available to occasional platform workers, as compared with more dependent platform workers, at first sight, these findings might nevertheless be considered surprising. The figures in Figure 22, together with the OLS calculations, show that workers who were relatively heavily dependent on platform work were only marginally disadvantaged in terms of access to social protections, compared with occasional platform workers. This is surprising because, as shown in Figures 16 and 17, the less dependent, occasional platform workers were much more likely to have another job, which might usually be expected to give much greater access to social protection. Previous research shows, for instance, that full-time, permanent employees almost universally have access to unemployment and sickness benefit.¹⁴⁶

¹⁴⁶ Matsaganis et al. 2016.

Figure 22: No access to social protection schemes by cluster



It is therefore notable that, as Figure 22 shows, the cluster in our survey that was most likely to have another form of employment and source of income, were also significantly at risk of not having access to either unemployment benefit (61.2%) or sickness benefit (46.1%). This suggests that although a considerable proportion of our survey respondents had other employment in addition to platform work, those other jobs were not of the type that gave access to social protections. It seems likely, therefore, that, for many of our respondents, **the “other job” was another insecure, precarious, non-standard form of employment.** This finding supports previous research that has found that platform workers often do not have employee status from another job.¹⁴⁷ Similarly, research on self-employment in the EU indicates that among self-employed persons with another job, this other job is often not of the standard employment model. Taken together, these findings underline concerns that the growth of platform work overlaps significantly with the spread of other forms of insecure work. As a result, it is difficult if not impossible to sharply distinguish platform workers as a separate and discreet fraction of the labour market. Rather, our findings match those of other research¹⁴⁸ in suggesting that the platform workforce is emerging as part of a wider group of mainly young workers, who are piecing together a living from a number of sources – and, it now appears, with relatively little coverage of the social protections enjoyed by other workers. This is an issue that we consider and tackle in our recommendations.

¹⁴⁷ Huws et al. 2016: 42; Huws et al. 2017.

¹⁴⁸ Huws et al. 2016: 50-51; Huws et al. 2017: 50.

Conclusion

In this chapter, we developed our analysis by turning to empirical matters. We began by discussing previous research, and subsequently added a considerable amount of new empirical evidence from our own investigations. Our discussion of previous research showed that, while more research is required, there are nevertheless good grounds already for believing that participation in platform work constitutes a significant, if relatively small, sector of paid work in the EU. Previous research has suggested that platform work is often unevenly distributed, and our evidence supports that view. The reasons for this unevenness in our case study countries lie in particular circumstances pertaining in different Member States. Nevertheless, we also showed that challenges to the provision of social protections for platform workers exist across all the Member States we studied.

Once more, our evidence supports conclusions from previous research. Our findings support the view that many platform workers engage in platform work as a secondary source of income, additional to income from another job. Furthermore, we identified a significant minority of platform workers for whom platform work represents their main or only source of income. This group were also poorer than other platform workers, and less likely to have access to social protections. Moreover, our survey also produced somewhat surprising evidence that even those who engage in platform work much less often, nevertheless also lack access to a number of important social protections. These findings suggest that platform workers who also have another source of income may well be insecurely employed in that other job as well. As a result, it cannot be assumed that occasional platform workers are securely employed, and only engage in platform work for a little extra “pin money”. Rather, the picture that emerges from our research, is one in which platform work shades into a wider landscape of insecure work, low pay, and lack of social protections. The next chapter further develops our analysis by addressing important legal issues in the provision of social protections for different categories of workers.

4. LEGAL ISSUES IN THE SOCIAL PROTECTION OF PLATFORM WORKERS

KEY FINDINGS

- The key legal issue affecting the degree of social protections for platform workers is that they are likely to be categorised as self-employed contractors rather than employees or workers.
- Legal issues arise at both national and EU levels. Forms and scope of protections vary considerably across Member States.
- The very significant variation in platform work and working arrangements means that general statements are extremely difficult to make.
- The CJEU has ruled that there is no one definition of what constitutes a “worker”. Instead, the CJEU applies a spectrum of tests, which makes the legal basis of access to social protections for platform workers a matter of legal complexity.
- Solutions for this complexity may be identified at a number of levels, and do not depend solely on legal employment status.
- A connected issue is the presence of legal barriers to the collective negotiation of terms and conditions in some national contexts.

A central question raised by the emergence of platform work is whether the individual performing such work falls within the scope of social protections. As noted above,¹⁴⁹ despite variation across Member States, it remains the case that many social protections within the EU are only accessible to those who meet a legal definition of “employee” (or, sometimes, “worker”). In other words, the legal definition of employee or dependent worker forms a **gateway to social protection**. Insofar as platform work departs from a standard model of employment,¹⁵⁰ its emergence raises important questions about the extent to which social protections are accessible to those engaged in it. The key issue for platform workers is that they are likely to be categorised as “self-employed” contractors rather than employees or dependent workers. Sometimes, this is a deliberate strategy of companies, intended to minimise their obligations to a workforce (known as misclassification). At other times, it represents the continuation of well-established traditions of autonomous work¹⁵¹ or simply arises by default because the established tests for employment relationships do not fit with the economic reality of new forms of work organisation. Whatever the circumstances, however, such a classification is likely to place a person undertaking paid work via a platform outside of the scope of key social protections.

While the rise of platform work is a relatively recent phenomenon, many of the issues around access to rights and protections consequent upon employee or worker status are not new at all. The longstanding problem of “atypical” workers’ ability (or otherwise) to access *employment protection* has generated considerable debate over the scope of employment law¹⁵² and the gatekeeper function of the employment relationship. Although

¹⁴⁹ See Chapter 1.

¹⁵⁰ Davidov 2017: 1.

¹⁵¹ See Figure 2.1.

¹⁵² See for example Davidov 2014: 543.

important issues remain unresolved, these debates address matters that are directly relevant to our present concerns. This chapter will therefore present a critical exploration of the principal issues in the legal construction of the employment relationship, its variations and alternatives.

Legal issues arise at both national and supranational levels. Platform work may take place within a host of different configurations of work relationships, with **each contractual situation** needing specific, factual evaluation. Furthermore, the personal scope of different forms of legal protection differs across countries and even within national employment law frameworks. For example, the **UK** National Living Wage applies to the broader category of “workers”, while the right not to be unfairly dismissed applies to the narrower category of “employees”. By contrast, in **Denmark**, where a more uniform definition of employee is used across employment law and other areas (tax and social security), the parties to a collective agreement can define employment contracts for the purposes of the working conditions contained within them.¹⁵³ At EU level, the CJEU has consistently asserted that there is **not one overarching EU definition of “worker”**. This heterogeneity, while allowing for a range of norms to be accommodated within and between levels, creates challenges for specifying a protective regime (if any exists) for platform workers. Consequently, it is extremely difficult to make generalisable statements. Of particular concern is the need to account for the increasing complexity in contractual arrangements underpinning work relationships rather than seeking to squeeze them into a framework based on a bilateral employment contract model.¹⁵⁴

Contractual form is not the only lens through which work relations may be viewed. The regulation of work relations comprises **a number of layers** that reflect its “normative ordering”.¹⁵⁵ This chapter uses this notion of layers (applied by Freedland and Kountouris¹⁵⁶ to personal work relations) to describe the key regulatory spaces relevant to the context of platform work. This serves to map the “normative ordering” of platform work and to identify issues raised within that ordering. This is a very broad map since for each Member State the set of regulatory layers will differ, and many of the issues identified are cross-cutting. As will be seen, the issue of the classification of the contract form cuts across most of the layers of regulation. Nevertheless, drilling through these layers in a little more depth gives a clearer indication of the ways in which the organisation of platform work can shape access to legal protections for those who provide services. An overview of regulatory layers is set out below (Sections 4.3–4.7). First, however, we will present some general considerations about the broader provision of social protections, followed by a discussion of the current importance of the legally constituted employment relationship. Later, in Chapter 5, we will build on the legal analysis in this chapter, together with the empirical data presented in Chapters 2 and 3, and the case study Annexes, to present concrete recommendations pertaining to the social protection of platform workers in the EU.

4.1. Platform workers’ access to social protection

Article 3 of the TEU commits the EU to “a highly competitive social market economy, aiming at full employment and social progress” and Article 9 of the TFEU mainstreams issues relating to social protection throughout EU policy by committing the EU to take into account the “guarantee of adequate social protection” for EU citizens across its policy areas

¹⁵³ ELLN 2009: 6.

¹⁵⁴ Lee and McCann 2014: 26.

¹⁵⁵ Freedland and Kountouris 2011: 97.

¹⁵⁶ Ibid.

and activities.¹⁵⁷ Therefore the issue of the social protection of platform workers is relevant throughout the EU's response to the rise of the platform economy. The EU has the competence to support and complement the activities of the Member States in the field of social security and social protection (as set out in Article 153 of the TFEU). In this domain of activity, there has been considerable debate over how to ensure that social protections might continue to be provided to workers as new forms of employment have emerged over recent years. The European Commission has recently started a consultation with EU level social partners in this area. The consultation document notes that social protection has traditionally been designed around workers in standard employment and that this has left non-standard workers with patchy coverage. The consultation document defines social protection thus:

“Social protection encompasses all social benefits in cash and kind, with typical ones being benefits in case of: unemployment, sickness, accidents at work and occupational diseases, invalidity, old-age, pre-retirement, death (i.e. survivors' pensions and death grants), maternity/paternity, parental and family obligations, and need for health care or long-term care.”¹⁵⁸

The International Labour Office (ILO) has distinguished between **four types of social protections**: social protection linked to a contract with a specific employer; social protection linked to salaried employment; social protection linked to participation in gainful employment (including non-salaried employment); and social protection linked to residency status.¹⁵⁹ Often, the gateway to such protections is through a standard model of employment, with a formal contract, and established legal rights and entitlements. Consequently, where the **standard employment model is absent**, workers may well find themselves **unable to access the same social protections** that are available to other workers. It is critical, therefore, that issues regarding workers' access to social protections are identified, and that appropriate policy responses are formulated and implemented.¹⁶⁰ Commonly, platform workers find themselves outside the formal classification of “worker” or “employee” that is used to determine access to social protection. As a result, platform workers are **excluded from important social protections**, such that they “bear the risk when there is insufficient work, when clients refuse to pay, when payments are low, or even for paying taxes to the government”.¹⁶¹

These problems are not new, however, and there is already a good deal of research on problems of access to social protections for workers in non-standard employment.¹⁶² Research suggests that workers in non-standard employment, of various types, are at significant risk of exclusion from social protections. Yet, solutions remain elusive. The emergence of platform work opens yet another area of activity where many of the same problems are manifest. Notably, the fact that **in the written terms of their contracts platform workers are commonly labelled as “self-employed”** creates an assumption that they are self-employed for employment and social security purposes, and thus at risk of exclusion from important social protections.¹⁶³ As explored below, while in most Member States formal authorities and courts operate according to the “primacy of facts” and will look beyond the labels used within a contract, the labelling of platform workers as self-

¹⁵⁷ European Union, 2012: 53.

¹⁵⁸ European Commission 2017c: 4. See also European Commission 2017d, 2017e.

¹⁵⁹ ILO 2016b.

¹⁶⁰ European Commission 2017a.

¹⁶¹ Berg 2016: 18.

¹⁶² Matsaganis et al. 2016; Spasova et al. 2017.

¹⁶³ A detailed discussion of employment classification is found below. See also European Parliament 2017b: paras. 2 and 37.

employed, combined with issues associated with the enforcement of classification, create a major barrier to access to forms of social protection. It commonly places the onus on workers themselves to challenge the classification of their employment as a first step to accessing forms of social protection. The categorisation as self-employed can **leave these workers outside the scope of social protection**. For example, although there is significant variety in the details of provision and access across Member States, on an EU-wide average, self-employed workers run a 55 per cent risk of not being entitled to unemployment benefit, and a 38 per cent risk of not being entitled to sickness benefit.¹⁶⁴ Of self-employed women, 46 per cent are at risk of not being entitled to maternity benefits.¹⁶⁵ By contrast, the risk of permanent, full-time workers not being entitled to these benefits is 0.1 per cent or less.¹⁶⁶ The contrast in the provision of social protections for those categorised as employees (or workers) and those classed as self-employed are stark. Such figures pose important questions for the promotion in recent years, at both EU level and within Member States, of policies designed to encourage “entrepreneurship” and self-employment, which appear to have contributed to increasingly obvious gaps in the coverage of social protections.¹⁶⁷

When looking at possible means by which the entitlement gap might be redressed, it is important to understand the difference between **statutory access** to social protections **and effective entitlement**. That is, even where self-employed (or other non-standard) workers have a statutory right to a social protection – such as an old-age pension – **they may not have access in practice**, due to not meeting particular practical requirements, such as continuity of employment, length of time in post, earnings below a required threshold, intermittent contributions, and so on.¹⁶⁸ Consequently, resolving problems of non-entitlement entails not only addressing issues of statutory entitlement, but also ensuring that effective access is not compromised for non-statutory reasons, as a result of patterns of work and payment rather than as a result of legal framing.

Thus, a recent ILO report on non-standard employment recommended that social protection should be afforded to workers in the platform economy, including: measures to lower thresholds for the minimum period of employment required to qualify for employment-related protection, to ensure “greater parity between workers in different forms of employment”; improving access to benefits by “allowing more flexibility with regard to interrupted contribution periods”; and “to ensure portability of entitlements” in order to maintain levels of protection in a mobile workforce.¹⁶⁹

Addressing the particular challenge of assuring access to social protections for workers in the platform economy classified as self-employed, the ILO has documented various solutions adopted around the world – for instance, “taking account of annual rather than monthly earnings (e.g. Brazil); flat contributions (Philippines, Thailand); proxy income measures (Brazil, Republic of Korea); or the use of broad contribution categories (e.g. Cabo Verde, Costa Rica, Tunisia)” – examples which suggest that a number of policy responses are available to governments for tackling this issue.¹⁷⁰

¹⁶⁴ Matsaganis et al. 2016: 21, 28.

¹⁶⁵ Ibid.: 34.

¹⁶⁶ Ibid.: 21, 28, 34.

¹⁶⁷ Spasova et al. 2017: 15. See Appendices for details of social protections for self-employed workers in eight Member State case studies.

¹⁶⁸ Spasova et al. 2017: 7.

¹⁶⁹ ILO 2016a: 302.

¹⁷⁰ Ibid.

The EU consultation process, though as yet incomplete, has discussed a number of policy alternatives – although it is too early to say which may eventually be adopted.¹⁷¹ Recognising that new forms of work have emerged much more rapidly than systems of social protections have adapted to them, the European Commission has set out three objectives; namely, that social protections should be:

- Coverage: ensuring that everyone in employment or self-employment has formal and effective access to social protection.
- Transferability: preserving social protection rights when workers change jobs, sectors of activity, forms of employment, move to or from self-employment.
- Transparency: ensuring access to user-friendly information on rights and obligations to social protection, irrespective of employment situation.¹⁷²

Furthermore, the Commission is proposing that the framework of the European Pillar of Social Rights, so that social protections are provided to all workers regardless of the form of contract under which they work. Currently, the Commission is seeking further views on how such a system might be implemented; for instance, what balance of mandatory and voluntary schemes would be appropriate, and what combination of action at EU and Member State levels would be most effective.¹⁷³

Moreover, a case can be made that such a reorganisation would benefit employers too, with the obligations to adhere to social protections compelling them to “organize the work to ensure that workers are kept busy, that the work is of sufficient quality, and that their profits are based on value created rather than wages so low that they do not cover the ‘social costs of the worker’”. Building a greater degree of **fairness** into platform work at this early stage can be seen as offering **long term advantages**, since “only a reorganization of work can ensure that this growing and important new sector of the economy will provide quality, decent jobs” and sufficient access to social protections for those working within it.¹⁷⁴

4.2. The significance of an “employment relationship” or “contract of employment”

A key first step – for platform workers and others – is to determine **whether or not a contract exists** and, if one does, whether it creates the kind of relationship that places the individual within the scope of protection. The concepts of employment contract or relationship, employee, and (particularly at EU level) worker, are central to a range of regulatory frameworks covering not just employment protection but other areas such as tax and social security. While these concepts hold great significance for the position of platform workers within protective employment and social regimes, it can be difficult to pin down an individual’s entitlement to employment and social rights with certainty. Different Member States adopt different definitions of these core concepts, and even within Member States there can be variations in the terminology and definitions used between different areas of law (such as employment, tax and social security). In some EU countries, a fairly uniform definition of “employee” is used across employment law and other areas of law such as tax and social security. Across the comparative countries covered in this report, this is the case in **Denmark** and **France**.¹⁷⁵ In other countries, however, a different

¹⁷¹ European Commission 2017d, 2017e.

¹⁷² European Commission 2017d: 8-9.

¹⁷³ European Commission 2017d: 8-12; European Commission 2017e: 60-76.

¹⁷⁴ Berg 2016: 25.

¹⁷⁵ ELLN 2009: 6.

concept of employment is used for the purposes of tax law and/or social security law, as is the case in **Bulgaria, Germany, Italy, Spain, Poland** and the **UK**.¹⁷⁶ Nevertheless, as the European Network of Legal Experts in the Field of Labour Law notes, “Different notions in different areas of law, however, do not necessarily result in major differences with regard to the content”.¹⁷⁷

In the following sections, we focus on **employment law**. This is the area in which there has been recent litigation involving actors in the platform economy, and many of the issues raised in these cases, and in surrounding commentary, are relevant also to the provision of social protections. We identify the different layers of regulation and explore emerging issues for platform workers. The issue of the classification of contracts for the purposes of accessing employment or labour law protections cuts across each of these layers. This analysis serves to demonstrate some of the complexity of the issue of classification when looked at from an EU or comparative perspective. The key message is that **the issue of classification is central** for the employment and social protection of workers in the platform economy, and one that is common across the Member States. A large degree of variation can be found in the definitions used and in the purpose that those definitions serve, meaning that regulatory responses at the EU and international levels should be sensitive to diversity within and between Member States. The source of this diversity is the normative underpinning of the protective measures.

The “problem” of classifying a contract within the platform economy as employment or as self-employment is not a purely technical one. It connects to much broader questions about the institutions and political settlements that shape, first, the expectations of parties to platform work contracts and, second, broader societal expectations about how work contributes to the distribution and mitigation of social risk. The reason that the **legal tests** used to identify and classify work relationships **appear ill-suited** to the task of analysing work in the platform economy does **not simply arise from qualitative or technical differences in the organisation of work**, but also from **stark differences in the normative underpinnings of so called standard and non-standard work**. By “normative underpinnings”, we mean the assumptions about who workers are, what they need and whether and how they should be protected from social risks.¹⁷⁸

Building an adequate legal response to this problem for those working within the platform economy must entail engaging with political actors and economic and social institutions as well as embracing the technological opportunities to which platforms respond. The relevant actors reach beyond those directly involved in the ownership, design, management and use of platforms. From an employment or labour law perspective Fudge¹⁷⁹ asserts,

“Labour law is ... deeply political; it is about the redistribution of power and wealth, and the outcome of conflicts that are successfully mediated through institutions.”

In many ways, the rise of platform work simply continues the unresolved debate about the role of the employment relationship or contract of employment as a foundational institution of employment and social protection. In simple terms, an employment contract is a work relationship that has been constructed as protective. Across Europe the institution of the contract of employment or an employment relationship is central and foundational to labour law.¹⁸⁰ Broadly, the employment relationship serves to connect

¹⁷⁶ Ibid.

¹⁷⁷ Ibid.

¹⁷⁸ Fudge and Owens 2006: 3.

¹⁷⁹ Fudge 2017: 15.

¹⁸⁰ Freedland 2014: 66.

subordinated workers to protection from abuse of power¹⁸¹ and to link labour law to other areas of protective and redistributive regimes that mitigate social risks (social protection).¹⁸² Those who provide work through contracts that do not take the form of an employment relationship may fall entirely or partially outside of the regime of employment and social protection associated with employment relationships. As the Commission noted in the 2006 Green Paper on modernising labour law:

“The emergence of diverse forms of non-standard work has made the boundaries between labour law and commercial law less clear. The traditional binary distinction between ‘employees’ and the independent ‘self-employed’ is no longer an adequate depiction of the economic and social reality of work. Disputes concerning the legal nature of the employment relationship can arise where that relationship has either been disguised or where a genuine difficulty arises in seeking to fit new and dynamic work arrangements within the traditional framework of the employment relationship.”¹⁸³

The rise of platform work and the various configurations of work relationships that underpin it represent one of the latest sources of novelty in the organisation of work. However, the issues of misclassification and uncertainty concerning the legal effects of evolving forms of work arrangements are longstanding ones. The European Commission’s Communication on a European agenda for the Collaborative Economy¹⁸⁴ and recent consultation concerning the scope of the “Written Statement Directive”¹⁸⁵ acknowledge the longstanding issue of classification. The following sections explore the layers of regulation that shape the protection, via employment law, of those who provide services through platforms. It places the issue of classification within the broader context of employment law and demonstrates how pervasive the issue of contract form can be.

4.3. Regulations and norms agreed between workers and employers

One key ‘layer’ to consider for platform workers is the variety of non-statutory sources of regulation that shape relations between workers and employers. We begin by looking at contracts in platform work, before moving on to consider the specific nature of contracts and agreements between the (often complex) web of actors in platform economy relationships. We then examine how these contracts are negotiated and enforced in practice in the platform economy, before finishing this section by returning to the issue of contract form for platform workers.

4.3.1. Platform work relationships as contracts

The principal legal device through which relationships entailing paid work are created is a contract. Contracts provide a mechanism for parties to make agreements of their own that the law will enforce. However, some aspects of the platform economy **complicate** the application of traditional **principles of contract formation** and raise questions about whether binding agreements are always formed. The blurring of the distinction between commercial and social¹⁸⁶ purposes of ventures (the peer-to-peer element) within the platform economy and of the nature of the exchange between parties, places contractual agreements in which paid work is carried out on a spectrum encompassing forms of

¹⁸¹ Deakin 2013.

¹⁸² Fudge 2017.

¹⁸³ COM (2006) 708 final: 10.

¹⁸⁴ COM (2016) 356 final: 11.

¹⁸⁵ SWD (2017) 205 final.

¹⁸⁶ Sundararajan 2017: 17.

counter performance other than money payments such, as data¹⁸⁷ and barter,¹⁸⁸ along with competitions with prizes and pure gifts.¹⁸⁹ While these forms of arrangement are not novel in themselves, “the scale, variety and technology is different”,¹⁹⁰ raising questions about how existing principles of contract formation apply, and whether agreements are always underpinned by an intention to create legal relations which, in most jurisdictions, is a necessary pre-requisite for a binding contract to arise. Are the **promises** that are made by work providers and service users **always legally enforceable (“a binding contract”)**? This will not always be self-evident.

As noted in Chapter 2 and the country case studies in Annexe 1, platforms operate in a huge variety of ways and it follows that the contractual arrangements underpinning these configurations will also vary widely.¹⁹¹ It has been stressed that platform work “should not be understood as a single unified phenomenon”.¹⁹² A key point to make is that there is **no standard or uniform set of contractual arrangements** that underpin the provision of work through platforms. Policy actors should not imagine that the contractual arrangements that underpin the provision of labour through one platform will be the same as another.

4.3.2. Webs of actors and agreements

One common feature of service provision within the platform economy is that **arrangements involve multiple actors**. These can be loosely grouped as service providers, service users and intermediaries. Different contractual models emerge with “platforms” variously involved as intermediaries (agents that create bilateral contracts between service providers and users but are not themselves parties to the contract) or parties to contracts (with tripartite contractual arrangements similar to models of agency work).¹⁹³ Multiple entities of varying organisational forms often exist “under the hood”,¹⁹⁴ complicating the identification of parties to a contract. The organisation of **platform work** is thus underpinned by **multiple agreements** (contractual and non-contractual) between combinations of the relevant actors. These constellations of arrangements are better understood as a whole rather than in separation.¹⁹⁵ The legal implications of these agreements are not always immediately apparent and are thus subject to interpretation, while written agreements may not always accurately represent the way that the arrangements work in practice. Furthermore, the duration of contractual arrangements may be unclear; does a contract last for the duration of a particular task or can an umbrella contract be implied across a body of work conducted through a platform?

The complex web of arrangements underpinning the provision of work through platforms can thus be opaque. This can complicate the enforcement of contractual rights since it can be difficult to establish the existence of a binding contractual agreement between a

¹⁸⁷ The draft digital economy directives that deal with business-to-consumer contracts for the supply of goods and digital content propose full harmonisation of key contract rules in those domains and adopt broad definition of remuneration including counter-performance in the form of personal data or other data (COM(2015)634 final and COM(2015)635 final).

¹⁸⁸ Research group on the Law of Digital Services 2016: 165.

¹⁸⁹ Sundararajan 2017: 18.

¹⁹⁰ Sundararajan 2016: 7.

¹⁹¹ Prassl and Risak 2016: 623.

¹⁹² Ibid.: 621.

¹⁹³ Ibid.: 622.

¹⁹⁴ Sundararajan 2016: 69. These may include limited liability parent and subsidiary companies or other more novel organisational forms such as cooperatives like CAEs in France that purposefully employ providers as salaried staff.

¹⁹⁵ Prassl and Risak 2016: 633.

particular set of actors, let alone to classify it as taking any particular form (for example, an employment contract or a consumer contract).¹⁹⁶

4.3.3. Negotiation and enforcement of contract terms

The nature of the terms under which work is provided through platforms has been the subject of media campaigns and of litigation, particularly for the larger, more prominent platforms in the US.¹⁹⁷ Some of these high-profile campaigns have led to changes in the terms and conditions of suppliers either in response to negative media attention or negotiated settlement. Such high-profile campaigns skew attention from the more mundane matters of the **content and enforcement of contractual terms**, particularly of smaller, less well known platforms. Contracts are often drafted individually (rather than collectively) and according to the assumption that employment rights and other social protections do not arise. Moreover, the process of offering and accepting terms and of accepting changes to terms with platforms is conducted digitally and at a distance, offering little space for negotiation. Service providers can find themselves in a **weak bargaining position**, as described by Das Acevedo:

“companies are free to impose increasingly substantial requirements on suppliers and to market these requirements as part of their brands while leaving suppliers to internalize the risks associated with transactions”.¹⁹⁸

Various matters arise from the asymmetry in bargaining power between the parties to the contract, such as: the clarity of drafting; the use of non-negotiated standard form agreements; the insertion of one-sided or unfair contract terms; the use of widely drawn terms to build-in flexibility; and, the renegotiation¹⁹⁹ or simple imposition of changes to terms and conditions. Many of the questions that result, such as how the suppliers of services negotiate and enforce their rights as parties to contracts, are familiar to situations that involve contracts between unequal parties (such as employment law and consumer law). Moreover, an individual service provider’s appetite to enforce the terms of their agreement may be reduced by a range of factors including the short-term and potentially low value of individual assignments (this is particularly so in the context of micro-tasking).

The **UK** case provides an example of a term – a provision forming part of a contract, which gives rise to a legal obligation - that disproportionately benefitted one party to the disadvantage of the other. Delivery platform Deliveroo included within their rider agreements a clause that tried to prevent drivers from challenging, at an Employment Tribunal, the way their employment status was classified.²⁰⁰ Leigh Day solicitors suggest that until early 2017 such a clause was in effect. Following negative publicity there has been a change to this term, and this deterrent to bringing an employment tribunal claim has been removed. Leigh Day report that over 200 riders have subsequently contacted the firm in respect of a legal claim concerning their employment status.²⁰¹ By contrast, there are examples of platforms that adopt contractual arrangements expressly designed to provide enhanced terms and conditions for service providers. In Annexe 1, the country case study of **France** looks at the emergence of co-operatives such as CAEs.

¹⁹⁶ Hatzopoulos and Roma (2017: 86) note that “the lines are blurred between the terms *consumer* and *provider*, *employee* and *self-employed*, or the *professional* and *non-professional* provision of services”.

¹⁹⁷ Das Acevedo 2016: 26.

¹⁹⁸ Ibid.: 3.

¹⁹⁹ Recent protests by Deliveroo riders in the UK were sparked by plans to implement new terms relating to rates of pay; see Shead 2016. While in France, Deliveroo riders protested the removal of hourly pay for its most senior riders; see Benoit 2017.

²⁰⁰ Benson 2017: 3.

²⁰¹ Benson 2017: 3.

The following sections consider some of the emerging practices between platforms and service providers. Most of these were identified by Das Acevedo²⁰² based on research in the US, but resonate with the empirical findings of this study.

Rating systems: A key feature of the platform economy is the digitization of trust mechanisms particularly through rating systems. It is common for platforms to include a rating system within their agreements with service providers. This often entails the rating of the work of service providers by “the crowd”, be that the actual²⁰³ or potential²⁰⁴ users of an individual’s services. **The design and application** of ratings systems can **directly impact the interests of service providers** (in particular their access to future work or risk of “deactivation”). Issues raised include the existence of appeal and redress mechanisms in the instance of inaccuracy (unfair or inaccurate ratings such as “revenge ratings” or discriminatory ratings²⁰⁵) or harsh “package effects”²⁰⁶ arising from a platform’s approach to algorithms, averaging and filters.

Payment arrangements: Payment arrangements vary widely between platforms. Some platforms set rates of pay, while others leave service providers to set their own rates. Some platforms, such as Uber, use dynamic pricing which allows for price increases at times of peak demand. Payment by completed task is common within the platform economy, placing an emphasis on models of piecework rather than hourly pay. Where payment takes this form, levels of remuneration are dependent not only on the rate but also on the availability of work. As Chapter 3 noted, survey research reveals discontent amongst platform economy workers in this area. Litigation has emerged with regard to unpaid wages, expenses and tips reimbursement in the **USA**.²⁰⁷ Contractual issues may arise when providers earn less than was advertised²⁰⁸ or when levels of pay are unilaterally changed.²⁰⁹

Other forms of voluntary benefits: Given the common characterisation of service providers as self-employed it would seem unlikely that platforms themselves would offer benefits to service providers. In the context of the US, Donovan et al.²¹⁰ point out that these are less likely to be provided to platform service providers, particularly given the similarity to part-time employment. Nevertheless, in response to health and safety concerns and to related media attention, a number of platforms (Uber, Lyft, Airbnb, Feastly and TaskRabbit)²¹¹ have begun to offer secondary liability insurance to providers (particularly in the US).²¹²

²⁰² Das Acevedo 2016: 29-34.

²⁰³ For example, passengers using the Uber app are invited to rate their ride.

²⁰⁴ In “open innovation” models, the crowd judges the quality of an idea or design. For example, the Threadless site allows customers to rate t-shirt designs, the most popular designs are then printed and sold. Sundararajan 2016: 76.

²⁰⁵ Edelman and Luca 2014.

²⁰⁶ Das Acevedo 2016: 21.

²⁰⁷ *Berwick v. Uber Technologies, Inc* No. 11 46739 EK (June 3, 2015); *O’Connor v. Uber Technologies, Inc.* No. 3:13-cv-03826-EMC (April 21, 2016).

²⁰⁸ Das Acevedo 2016: 31.

²⁰⁹ See above for recent protests by Deliveroo drivers in the UK in response to proposed changes to pay rates.

²¹⁰ Donovan et al. 2016: 14.

²¹¹ Das Acevedo 2016: 31.

²¹² Das Acevedo identified that key platforms were offering \$1million in secondary insurance (2016: 31) she cited the following webpages containing policy descriptions, terms and conditions or news stories as evidence. What Cooks Should Know, FEASTLY, <https://eatfeastly.com/info/cook-protection/> (accessed 06/10/2017); Host Protection Insurance, AIRBNB, <https://www.airbnb.co.uk/host-protection-insurance> (accessed 06/10/2017); Nairi, Insurance for UberX with Ridesharing, UBER NEWSROOM, <https://newsroom.uber.com/insurance-for-uberx-with-ridesharing/> (accessed 06/10/2017); We Go the Extra Mile for Safety, LYFT, <https://www.lyft.com/safety> (accessed 06/10/2017). The link to the TaskRabbit Guarantee Terms identified by Das Acevedo is no longer active but the following link provides details of

Account termination or “deactivation”: In the absence of wider employment protection, arrangements for the termination of agreements between service providers and platforms will be determined by the terms of their agreement which may place few obligations on a platform to provide notice or appeal mechanisms. Litigation has begun to prompt some changing practices. For example, the Uber driver settlement to litigation in the area of employment status (see below) in California and Massachusetts led to an agreement to remove immediate and un-appealable deactivation.²¹³

A different point related to termination is that concerning the rights of service providers when platforms cease trading. An example of this issue arose in **France** when food delivery platform Take Eat Easy folded and couriers sought to enforce their status as employees in order to claim compensation for lost earnings.²¹⁴

4.3.4. Contract form: a central issue

A first step to establishing employment protection is to determine **whether or not a contract exists and**, if one does, whether it creates the kind of relationship that places the individual within the personal scope of employment protection. In the domain of contract form (classification) the norms agreed between the worker and employer are confronted by the norms derived from national or EU legal systems. In most jurisdictions, the courts will adhere to the principle of the “primacy of facts”;²¹⁵ they will not be bound by the label applied by the parties to a contract and will independently assess the “true nature of the agreement”. The issue of classification (and misclassification) can be viewed in two ways. Firstly, the legal criteria or tests used to identify employment relationships are notoriously “malleable, fact-sensitive, and difficult to apply”,²¹⁶ and may be ill-suited to application within the new economic reality of transacting in the platform economy. Secondly, it should be acknowledged that “there has long been arbitrage of the law meaning illegitimate practices that lead to misclassification of what truly are employment relationships”.²¹⁷ For Cherry and Aloisi,²¹⁸ any judicial or legislative interventions ought to take account of both views.

A key feature of the platform economy is that it blurs the lines “between fully employed and casual labour, between independent and dependent employment, between work and leisure”.²¹⁹ As Chapters 2 and 3 explained, the platform economy provides the potential to facilitate new forms of working and to “repackage” existing forms of work arrangements in ways that avoid the responsibilities of employment. The immediate legal issue is whether and **how to categorise service provision contracts within the platform economy** as employment contracts. That is, to distinguish relationships that are akin to employment and ought to attract further forms of protection from those that are akin to self-employment and (according to the legal framework in most EU countries and the USA) ought not. As we have reiterated throughout this chapter, this problem is not new. It is a longstanding one affecting “atypical” workers more generally.

liability protection: Terms of service, TaskRabbit, <https://www.taskrabbit.co.uk/terms> (accessed 06/10/2017).

²¹³ *O'Connor v. Uber Technologies, Inc.* No. 3:13-cv-03826-EMC (April 21, 2016).

²¹⁴ Chebil 2016.

²¹⁵ ELLN 2009: 8.

²¹⁶ Cherry and Aloisi 2017: 677.

²¹⁷ *Ibid.*: 677.

²¹⁸ *Ibid.*

²¹⁹ Sundararajan 2017: 27.

The rise of platform work coincides with longer-term trends in business strategy and organisation that point to the casualization, outsourcing and fragmentation of work.²²⁰ The design of work relationships through platforms does not occur in a vacuum and is not simply incidental to the technological developments that underpin the rise of peer-to-peer modes of transacting. Policy makers should be alert to the idea that the contractual arrangements underpinning platform work may be purposefully designed as part of a **business strategy that avoids the categorisation of service provision as employment** to various degrees of authenticity, sophistication and success.

The question of whether a written agreement reflects the true nature of the arrangement between the parties opens up, to judicial scrutiny, the articulation not only of contract terms but of wider policy and practice. As litigation begins to emerge, an interplay between the application of judicial tests and the presentation and organisation of policy and practice, by platforms, becomes apparent. Recent press reports point to “linguistic guidelines” being suggested for internal managerial staff at Deliveroo ahead of impending litigation by riders (service providers).²²¹ The guidelines set out ways to avoid describing riders in terms that are suggestive of an employment relationship. The distinction between semantic and substantive organisational and technological innovation is therefore brought to the fore. Moreover, the use of language within a tactical strategy of “fogging” the classification of the contract was raised by the barrister representing the riders. The categorisation of service provision contracts as employment relationships (or other similar protective relationships) is thus the central issue relating to access to employment protection within the platform economy and impacts on access to social protection as well.

Finally, the question of which country’s law governs the contractual relationship between a service provider and a platform is an important one, particularly given the global operation of key platform companies. The Rome I Regulation²²² provides the framework for determining the law applicable to international employment contracts within the EU. These provide for the parties to a contract to choose the law that is applicable to their agreement. This freedom to choose the applicable law is the primary principle of the Regulations. However, where a contract is an employment contract extra protections apply. These serve to prevent the choice of law from depriving an employee of the protection of mandatory rules of the law that would have applied if the choice had not been made.²²³ In the absence of a choice of law the applicable law is that of the place where the work is habitually carried out or if the employee does not habitually carry out the work in a single country, the law of the place where the employee was engaged will apply. If, however, the contract is more closely connected with another country, the law of that other country will apply.

Platform workers whose contractual relationship is characterised as self-employed face the **hurdle** of first showing that **their contract falls within the definition of employment** for the purposes of the Regulation before they can rely on the more protective regime.

4.4. Norms derived from collective bargaining

A further source of regulation in employment relations derives from collective bargaining. However, collective bargaining poses particular difficulties in the realm of platform work.

²²⁰ Cherry and Aloisi 2017: 639.

²²¹ Butler 2017.

²²² Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I). ELI: <http://data.europa.eu/eli/reg/2008/593/oj>.

²²³ Ibid.: Article 8.

4.4.1. Collective bargaining, social dialogue and defining contract form

The definition of what constitutes an employment relationship such that the parties fall within the scope of employment law tends to be defined by law. Collective bargaining tends not to have a role here. In fact, across the EU it is common for the parties to a collective agreement to be legally prevented from determining the definition of an employment relationship or contract of employment.²²⁴ This is the case across most of the comparator countries within this study. In **Germany** “employee” is a mandatory concept that cannot be removed by a collective agreement or by contract, while in **Spain, Poland, France** and **Bulgaria** the parties to a collective agreement are legally prevented from determining the definition of an employment relationship (see Annexe 1). **Denmark** is one of the few EU Member States whereby collective agreements play a key role in defining employment relationships. It is possible for a worker to be classed as an employee under a collective agreement while falling outside of the statutory definition.²²⁵

4.4.2. Access to collective bargaining for non-standard workers

Providers of services through platforms face **legal hurdles** when seeking to collectivise and to **negotiate terms collectively**, the key ones being the classification of contract form for the purposes of falling within the scope of collective bargaining and the extent to which competition law is engaged when seemingly self-employed persons collectivise. Yet Freedland, writing about “regulating for decent work”,²²⁶ makes the point that beyond the classification of work relationships, the prevalence of alternative forms of regulation such as **collective bargaining** is an important determining factor.

The form of contract between a platform and service provider or service user and service provider will generally determine the availability of collective bargaining. In **Bulgaria**, collective bargaining mechanisms are exclusive to employees.²²⁷ In **Denmark** this is also the case in principle. In practice, however, an inclusive definition of employee and an unwritten labour law principle that allows for industrial action in support of a collective agreement for all types of work conducted as employment, mean that many atypical workers and self-employed persons are members of trade unions. Many **collective agreements** have been concluded on behalf of **atypical workers including freelancers** (see Annexe 1).²²⁸ In **Poland** collective agreements always relate to employees and can only cover other categories of work in addition to that.²²⁹ In **Spain** collective agreements apply to salaried workers only, although self-employed workers can join specific trade unions and associations and conclude “professional interest agreements”.²³⁰ In **Italy** new forms of contract are not covered by collective bargaining. Trade Unions such as Nuovo Identità di Lavoro, ACTA and Smart Italia have emerged as alternative forms of representation in traditionally self-employed labour sectors such as performance arts and creative industry workers but without actual bargaining power.²³¹ In some countries **collective bargaining is open to a wider groupings of providers** encompassing some self-employed persons that fall within the scope of newer forms of work category²³² such

²²⁴ ELLN 2009: 7.

²²⁵ Ibid.

²²⁶ Freedland 2014: 66.

²²⁷ ELLN 2009: 80.

²²⁸ ILO and ELLN 2013: 10.

²²⁹ ELLN 2009: 81.

²³⁰ ILO and ELLN 2013: 11.

²³¹ ELLN 2009: 78. See footnote on p.110.

²³² These are discussed in greater detail below.

as: *arbeitnehmerähnliche Person*, “employee-like persons” (**Germany**), *workers* (**UK**) and *economically dependent self-employed workers* (TRADE) (**Spain**).

Litigation concerning access to collective bargaining with platforms is beginning to emerge. A key case in this regard has recently been heard by the Central Arbitration Committee (CAC) in the **UK**.²³³ The question was whether riders of the food delivery platform Deliveroo could be considered workers for the purposes of union recognition for collective bargaining. John Hendy QC, who represented the riders and advised the union seeking to represent them (Independent Workers Union of Great Britain, IWGB), is quoted in the press as saying, “Those working in the gig economy will never see a significant improvement to their terms and conditions without being represented by a union in collective bargaining”.²³⁴ The case represented also **another means to tackle misclassification**. This route to the recognition of worker status may have been a tactical response to side-step a contractual term preventing riders from taking the company to employment tribunal. However, the CAC ruled that riders were not workers within the meaning of the relevant statute.²³⁵ This is because Deliveroo did not require the riders to make deliveries personally, and they could send a substitute in their place. Because the riders were not found to be workers, their claim for union recognition failed.²³⁶

Outside of formal collective bargaining, platform providers have begun to negotiate the terms of their agreements by various other means such as through the settlement of formal legal claims, through media and PR direct action campaigns,²³⁷ unofficial strike action,²³⁸ and political activity. The latter raise questions about the risk of liability of platform suppliers participating in these practices, although PR interests may inhibit the use of legal action by platforms.

A final note should be made about the application of competition law where independent contractors are combining to promote their interests through collective bargaining. This chapter does not deal with competition law in depth,²³⁹ although some of the individual case study country reports in Annexe 1 (e.g. **Germany**) do touch on this. Looking at the EU level, Hatzopoulos and Roma assert that it would be difficult to apply competition law to individual service providers since they do not partake in a concerted practice, and in particular that service provider agreements with platforms are not directly connected with those of other providers.²⁴⁰ However, in the context of collective agreements, **where provider agreements are directly connected, competition law may well apply**. In a recent case²⁴¹ the CJEU considered whether the provisions of Article 101 TFEU²⁴² would apply to a collective agreement that set rates of pay for employees and service providers. The case arose in the Netherlands where it is possible for independent service providers to join trade unions or employers’ or professional associations and for those organisations to conclude collective agreements on behalf of employees and also independent service

²³³ IWGB Union & Roofoods Limited t/a Deliveroo. For progress, see: <https://www.gov.uk/government/publications/cac-outcome-iwgb-union-roofoods-limited-ta-deliveroo/application-progress>.

²³⁴ Osborne 2016.

²³⁵ *Independent Workers Union of Great Britain v RooFoods Ltd T/A Deliveroo* TUR1/985(2016).

²³⁶ Butler 2017.

²³⁷ Das Aacevedo (2016 :20) asserts, “platforms’ growing lobbying power makes their battle with incumbents more like Hector and Ajax than like David and Goliath”.

²³⁸ Deliveroo riders in the UK recently took strike action in response to proposed imposition of new terms relating to pay; Staufenberg 2016.

²³⁹ See Hatzopoulos and Roma 2017: 109-114, 120-121.

²⁴⁰ *Ibid.*: 120.

²⁴¹ C-413/13 *FNV Kunsten Informatie en Media* ECLI:EU:C:2014:2411.

²⁴² Which sets out rules applying to ‘undertakings’ within the internal market and prohibits, amongst other things, agreements between undertakings that directly or indirectly fix purchase or selling prices or other trading conditions.

providers. A musicians' union concluded a collective agreement with an employers' association relating to musicians substituting for members of an orchestra. The agreement laid down minimum fees for both "employed substitutes" and "self-employed substitutes". The CJEU held that, while collective agreements between employers and employees are outside of the scope of Art 101, collective agreements on behalf of self-employed contractors fall within the scope of Art 101 since in those circumstances the trade union acts not as a social partner but as an "association of undertakings".²⁴³ However it went on to assert that this does not apply where self-employed contractors are in fact "false self-employed" (i.e. have been misclassified) and where that is the case the agreement would again fall outside of the scope of Art 101.²⁴⁴ It went on to find that the broad EU definition of worker would apply regardless of the status of the service provider within national law and left it to the national court to apply the legal tests in order to determine the status of the substitutes. **Where platform workers** who work as self-employed contractors are able, within national legal systems, to **engage in collective bargaining** they will have to show that they are in fact false self-employed (i.e. that they are in fact workers within the EU definition) in order to avoid the application of EU competition law to the substance of their agreements.

We now turn to consider the norms derived from national legal systems.

4.5. Norms derived from national legal systems: constitutional, legislative, administrative

Access to important forms of employment and other forms of social protection for service providers in the platform economy hinges on whether their agreements with platforms, or with service users, amount to "employment relationships" or "contracts of employment", as defined at the national or subnational level. This section focusses on how Member States define employment relationships and enforce their classification.

4.5.1. Establishing contract form: another source of variation

The definition of employment, self-employment or other emerging protective contract forms²⁴⁵ differs within the national legal systems of the Member States of the European Union. Moreover, the implications of such categorisations also differ by Member State.²⁴⁶ Drawing on the analysis of "Characteristics of the Employment Relationship", published by the European Network of Legal Experts in the Field of Labour Law (ELLN), we focus here on approaches taken to classify contracts of employment or employment relationships within the eight Member States in this study and to highlight the heterogeneity in this domain.

A key issue for service providers in the platform economy is that of **enforcement**. If a service provider suspects that their relationship with a platform or service user has been labelled as self-employment but in practice resembles employment, how readily can they obtain an authoritative determination of the true nature of their agreement? Where new forms of contracting emerge and existing legal frameworks are applied, legal uncertainty is almost inevitable, although there are ways in which the impact of uncertainty can be minimised. Relevant issues include the cost and speed of resolution, the question of who

²⁴³ C-413/13 *FNV Kunsten Informatie en Media* ECLI:EU:C:2014:2411: Para 27.

²⁴⁴ *Ibid.*: Para 31.

²⁴⁵ For example, *arbeitnehmerähnliche Person*, "employee-like persons" (Germany), *workers* (UK), and *economically dependent self-employed workers* (TRADE) (Spain).

²⁴⁶ Freedland 2014: 66.

initiates proceedings (whether enforcement is proactive or reactive) and the existence of hurdles (such as the allocation of the burden of proof) within proceedings.

Across the Member States the determination of a work relationship as a contract of employment or employment relationship is carried out by the courts on the basis of the facts and through the application of objective criteria using various indicators.²⁴⁷ As noted, most Member States acknowledge the **“primacy of facts”**, meaning that the courts will look beyond the labels applied by the parties and will base their conclusions on the way that the **relationship works in practice** (in **Germany** this operates in favour of the employee only). In some Member States, relevant authorities can investigate contract form or initiate proceedings. Labour inspectorates play a key role in **Bulgaria, Spain** and **Poland**, while in **Denmark** the tax authorities are key. In the area of social security law, in **Germany** the parties to a relationship can submit an application to an administrative body to determine the existence of employment. In some circumstances the competent collection officer can initiate proceedings. **Italy** has a system of mandatory data sharing and a joint programme of inspections by tax authorities, social security authorities and the police seeks to tackle misclassification.²⁴⁸

In some Member States, there is also a statutory presumption that a contract of employment or employment relationship exists. For example, in **Spain** there is a rebuttable presumption of employment status where a person provides a service in exchange for remuneration at the risk of, and under the management and within the organisational sphere of, another person who is the beneficiary of that service.²⁴⁹ In **Italy** a contract of employment is presumed to arise where there is a contract for services but the parties have failed to identify a project. Even in the absence of statutory presumptions, **certain factors may prompt the courts to presume that a contract of employment exists**. In **Denmark**, the classification of a contract as an employment contract for tax purposes will lead to a presumption that it is a contract of employment for labour law purposes.²⁵⁰

Few EU Member States explicitly deem certain persons to be employed under a contract of employment or self-employment but there are some examples. In **Poland** and **Denmark** temporary agency workers in a triangular employment relationship are deemed to be employees (although in **Denmark** they are excluded from some legislation).²⁵¹

The key issue in this area is the uncertainty associated with the application of existing legal tools to new forms of arrangement. The concept of contract of employment or employment relationship is defined in various ways within different Member States. Some Member States (such as **Spain** and **Poland**) have a statutory definition,²⁵² while in others the definition is derived indirectly from different pieces of legislation (**Germany**), indirectly from the definition of “employee” (**Italy**), or principally from case law (**Bulgaria, Denmark, France** and **UK**).²⁵³ Even where statutory definitions do exist the courts play an important role in interpreting them.²⁵⁴ Some Member States have a **statutory definition of “employee” (Spain, Poland, Italy, UK) and of “employer” (Bulgaria, Poland, UK)**, but these are generally indirect with reference to employee or contract of

²⁴⁷ ELLN 2009: 15.

²⁴⁸ Ibid.

²⁴⁹ Article 8(1) of the Labour Code, “Estatuto de los Trabajadores”, RDLeg. 1/1995, 24 March 1995 (cited in ILO 2013a: 29).

²⁵⁰ ELLN 2009:12.

²⁵¹ Ibid.: 13.

²⁵² In Spain and Poland statutory definitions of “employee” and of “contract of employment” exist. These are described by ELLN (2009: 4) as “independent and intertwined”.

²⁵³ ELLN 2009: 4. In the UK, the various statutory definitions defer to the common law.

²⁵⁴ Ibid.: 2.

Table 1: "Ingredients" of Employment Relationship in comparator countries

	BG	DK	FR	DE	IT	PL	ES	UK
Power to issue personal and functional instructions	✓	✓	✓	✓		✓	✓	✓
Control and employer power of supervision	✓	✓		✓			✓	✓
Organisational subordination	✓	✓	✓	✓	✓	✓	✓	✓
Work carried out within specific hours /agreed times.	✓		✓	✓	✓	✓	✓	
Duration / continuity							✓	
Provision of tools and equipment	✓		✓	✓	✓	✓	✓	✓
Receipt of periodic payments	✓			✓	✓	✓		✓
Other party bears the financial risk	✓	✓		✓	✓	✓	✓	✓
Integration in work organisation	✓		✓	✓	✓	Insignificant	✓	✓
Work performed solely or mainly for benefit of another	✓	✓		✓	✓	✓	✓	✓
Personal service / substitution. Some flexibility allowed for				✓				✓
Personal service / substitution. Rigid approach	✓	✓	✓		✓			
Mutuality of obligation							Employer obligation of "effective occupation"	✓
Tax arrangements		✓						
Economic dependence alone insufficient to establish Employment Relationship	✓	✓	✓ but different approach for one-person enterprises	✓	✓	✓	✓	✓

Source: Authors' own elaboration based on ELLN reports, 2009 and 2013.

employment or employment relationship. In some countries, the same definitions apply across the field of labour law (**Bulgaria, France, Italy, Poland**), while in others different definitions apply to different areas of labour law (for example, in **Germany** differences in the definition of employee can be found between individual employment law and collective labour law).

In all EU countries, the main criterion for establishing the employment relationship is the **subordination or dependence of one person on another**.²⁵⁵ In **Italy** the term “subordination” is used, while **Denmark** and **Germany** refer to “personal dependence” and in **Bulgaria** and **France** the term “legal dependence” is used. In the **UK**, a key aspect of the multifactorial test is “control”. Within some legal systems (such as **Italy**) subordination is the central ingredient for an employment contract to arise, while in others (such as **Germany**) no single criterion is indispensable.²⁵⁶ A key aspect of dependence or subordination in the countries studied for this report is that the employee is under the supervisory power of the employer; the ELLN characterises this as “occupational subordination”. As Table 1 shows, while similar criteria are taken into account there is a large degree of variation in the way that Member States define an employment relationship. Moreover, what isn’t captured in Table 1 are the various degrees of weight that are given to the criteria. Legal systems variously take into account aspects of organisational subordination (encompassing personal and functional work instructions, integration into the organisation, control of work, provision of tools and equipment amongst others).²⁵⁷ Some jurisdictions also take into account economic indicators (such as remuneration and the allocation of financial risk). Aside from indicators related to subordination, requirements of personal service, mutuality of obligations (a concept of particular relevance in the **UK**) and requirements relating to the duration and continuity of employment may also be relevant criteria, amongst others.²⁵⁸ Exclusivity is another relevant issue. The above discussion has shown that national definitions of employment relationships tend to be fairly open ended and flexible. Nevertheless, they may serve to exclude those working through platforms. Of particular concern is the status of a worker who falls within a “grey area” between someone who is an employee in a subordinate relationship with an employer and a self-employed entrepreneur who is clearly in business on their own. The question arises what should be done to address this issue?

4.5.2. Expanding the boundaries of the “employment relationship”

One way to bring those who provide services through platforms into protective regimes is to **expand the definition of employment relationship**.²⁵⁹ For example, **Denmark** has a fairly inclusive definition of employment and approach to bringing atypical workers within the scope of protection through collective agreements. In **Bulgaria**, recent statutory changes have seen some forms of atypical work, such as homework, telework and agency work, being expressly included within the definition of work concluded through an employment relationship. Aside from changes to the statutory definition, the courts have sometimes adopted a more flexible, purposive approach to applying national definitions of employment relationships. The French courts have long adopted a more expansive approach.²⁶⁰

²⁵⁵ Ibid.: 16.

²⁵⁶ Ibid.: 16.

²⁵⁷ Ibid.: 20.

²⁵⁸ Ibid.: 23.

²⁵⁹ Adams and Deakin 2014: 795.

²⁶⁰ Adams and Deakin 2014: 796.

Another approach to addressing the issue is to create a new form of categorisation for workers who fall within the “grey area” between employment and self-employment. As explored further below, examples from **Germany** and **Spain** demonstrate the introduction of a new “independent worker” status as a midpoint between independent contractor and salaried worker. A key initiative that straddles these two approaches is the introduction of **auto-entrepreneur status** in **France**. This initiative did not extend the definition of an employment relationship but it did extend some of the provisions of the Labour Code to some individuals in charge of an individual enterprise. The criteria for inclusion are principally economic: “exclusive or quasi-exclusive activity for a dominant company which imposes the prices paid to the one-person enterprise”.²⁶¹ The development of auto-entrepreneur status in **France** responds to policy concerns that businesses would use any new “midpoint” status not to reclassify independent contractors, but to downgrade the status of those who are currently employed.²⁶²

4.5.3. Creating other forms of work relationship that trigger social protection

As noted above, some Member States have sought to identify a further category of workers who fall outside of the definition of employee but nevertheless do not appear to be working as autonomous self-employed entrepreneurs and thus seem in need of **some forms of protection**. A similar approach has been taken in Canada and calls have been made to create a hybrid category of worker in the USA in response to recent litigation concerning the contractual status of platform workers.²⁶³

In **Germany** “employee-like persons” or quasi workers are not “personally dependent” or “subordinated” like employees – but are “economically dependent”. Some forms of employment protection are extended (on a piecemeal basis) to these workers (for example paid holiday and antidiscrimination protection), their terms are subject to judicial scrutiny and they are entitled to collective bargaining (see Annexe 1 for more details).²⁶⁴

Italian law recognises cooperative relationships under which a worker performs “employer-coordinated freelance work” or “project work”. A level of protection is provided to such workers since the salary must be proportional to the quantity and quality of the work performed and must reflect the salaries usually paid for similar services under an employment relationship in accordance with national collective agreements.²⁶⁵

In 2007, a new category of “economically dependent self-employed workers” was introduced by statute in **Spain**. These workers can access similar rights to employees - for example, annual leave, family-related absence from work, severance payments (subject to contractual provisions) - they can be covered by collective bargaining and can participate in industrial action. Workers in this category will undertake their work primarily for a single client on a regular basis. They will be economically dependent upon that client, receiving 75 per cent or more of their income from them. The worker in this category will also not engage employees and must have their own place of work.²⁶⁶

In the **UK**, a broad category of “worker” encompasses both “employees” and those employed under any other contract, whereby the individual provides personal service for another but not in the capacity of a professional or independent business. The provisions include the National Living Wage, working time protection (including paid annual leave)

²⁶¹ ILO 2013a: 24.

²⁶² Amar and Viossat, 2016.

²⁶³ Cherry and Aloisi 2017: 646.

²⁶⁴ ELLN 2009: 35.

²⁶⁵ Ibid.: 48.

²⁶⁶ ILO 2013a: 24.

and protection under whistle-blowing legislation.²⁶⁷ Similarly, the provisions of the **UK Equality Act 2010** cover a wide range of workers encompassing contracts of employment, contracts of apprenticeship and contracts to do work personally. Moreover, a similar definition of worker is used for the purposes of trade union recognition and the provisions on collective bargaining.

4.5.4. Social protection for the self-employed

Self-employment status, does, in some Member States, provide rights and protection for those engaged on such contracts. In terms of social protection, as Eurofound²⁶⁸ note, systems in the EU either seek to maintain workers' income in case of social risks (meaning a close link between protection and employment), or to ensure a basic income for all citizens against some risks. Just as social protection levels for those on regular contracts vary across countries, **so too does social protection for the self-employed**. Eurofound²⁶⁹ suggest categorising Member States as: "inclusive", where the self-employed have the same protection as employed workers (**Denmark, Finland, Sweden**); those that have separate protection schemes for the self-employed (**Austria, Belgium, France, Germany, Greece, Italy, Luxembourg, Netherlands, Spain, Portugal**); those where there are universal elements to protection, but with no specific system for the self-employed (**Croatia, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia**); and those where there are more limited social protection rights for the self-employed (**UK, Bulgaria, Ireland**).

Spasova et al.²⁷⁰ consider a range of 11 specific social protection rights for the self-employed, including those associated with unemployment, old age, maternity and paternity, unemployment and sickness. The analysis of Spasova et al. synthesises reports from 35 countries conducted as part of the European Social Policy Network, and categorises Member States as "full", "partial" or "none", in terms of **how much access self-employed workers have to each form of social protection** compared to directly employed workers. This has been adapted in Table 2, using the terms "high", "medium" and "low" protection for the self-employed for each form of social protection.

At a headline level, social protection for self-employed workers may look relatively strong in Table 2, with a number of Member States extending social protection to self-employed workers along all 11 of the dimensions covered as a statutory right. However, as Spasova et al. point out, **"effective" protection** for self-employed workers may be **much lower in practice**. Eligibility criteria are set with thresholds (for income levels, hours of work) that are often difficult for the self-employed to attain. As Spasova et al. note,²⁷¹ "(the self-employed) may therefore experience partial exclusion or receive lower benefits than standard workers because of these difficulties." For the self-employed, conditions for eligibility are often tailored to direct employment, and base levels of income used to assess eligibility are often difficult to meet.²⁷²

²⁶⁷ Ibid.: 24.

²⁶⁸ Eurofound 2017a.

²⁶⁹ Ibid.

²⁷⁰ Spasova et al.: 2017.

²⁷¹ Ibid.: 14.

²⁷² Eurofound 2017a: 35.

Table 2: Statutory provision of social protection to self-employed workers in EU Member States

Type of social protection	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LV	LU	MT	NL	PL	PT	RO	SE	SI	SK	UK	
Healthcare	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H
Family benefits	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	M	H	H	H	H	H	H	M	H	H	H	H	H	H
Long-term care	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	M	H	H	H	H	H	H	M	H	H	H	H	H	H
Social assistance	H	H	H	H	H	H	H	M	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H	H
Survivors pension	H	H	H	H	H	M	L	H	H	H	H	H	H	H	H	H	H	H	H	H	M	H	H	M	H	H	H	H	M
Old age	H	H	H	H	H	M	H	H	H	M	H	H	H	H	H	H	H	H	H	H	M	H	H	M	H	H	H	H	M
Invalidity	H	H	H	H	H	M	H	H	H	H	H	H	M	H	L	M	H	H	H	H	M	H	H	M	H	H	H	H	M
Maternity / paternity, in cash and in kind	H	H	H	H	M	M	H	M	M	H	H	M	H	H	H	H	H	H	H	H	M	M	H	M	H	H	H	H	M
Sickness	H	H	M	H	M	M	H	H	L	H	H	M	H	H	M	L	H	H	H	H	M	M	M	M	H	M	H	M	M
Work accidents, occupational injuries	H	L	L	L	H	M	M	M	M	M	H	L	H	H	L	H	L	L	H	H	M	H	M	M	H	H	L	L	L
Unemployment	M	L	L	L	H	L	M	M	M	M	M	L	H	H	M	L	L	L	H	L	L	M	H	M	M	H	H	H	M

Source: Adapted by the author from Spasova et al.²⁷³ H=high coverage, M=Medium coverage L=low coverage for self-employed workers. “High” means that self-employed workers have access to this form of protection through compulsory insurance, universal benefits or means-tested benefits; “Medium” indicates that partial access is available to self-employed workers due to eligibility criteria and/or period of receipt, compared to directly employed workers, and “if insurance-based and non-contributory benefits co-exist, individuals can access only the latter”.²⁷⁴ In our summary table above, medium protection is also given for those countries where self-employed workers are not automatically insured under a scheme, but can opt in. “Low” means that self-employed persons have no access to the scheme.

²⁷³ Spasova et al. 2017: 77-83.

²⁷⁴ Ibid.: 77.

Looking at the eight Member States considered in this study, there are examples of countries in each of the four categories of social protection identified by Eurofound. **Denmark** is seen as having an inclusive system of social protection for the self-employed. The self-employed have much the same protection as regular employees, since most social benefits are universally available. Some elements are voluntary, however, with the self-employed required to opt-in (and pay contributions) to access benefits. Eurofound note²⁷⁵ that in **Denmark** the self-employed have to opt in to an occupational pension, above the state pension, and they also have to opt in to get insurance against accidents at work and unemployment. Schemes for accidents at work and sickness benefits are run by private companies in **Denmark** rather than the state.²⁷⁶ Looking specifically at unemployment benefits, there is a special social security fund for the self-employed in **Denmark** that they have to opt in to, and which tends to be used by the self-employed without employees for extra insurance cover.²⁷⁷

Germany, France, Italy and **Spain** are categorised by Eurofound²⁷⁸ as states where there are separate protection schemes for the self-employed, and some elements of these are covered in the Annexes of this report. The situation with regards to access to individual forms of social protection for the self-employed remains quite different though, even within these four countries. In **Germany**, some forms of social protection are in place for all workers (Eurofound note that this applies to healthcare and long-term care costs, and family benefits). Spasova et al.²⁷⁹ note that for other benefits, only some categories of self-employed are compulsorily insured (they identify “dependent self-employed without employees”), while others may only opt in. Furthermore, the self-employed can opt out of healthcare protection and get private insurance. Unemployment insurance is available to the self-employed in **Germany** on an opt-in basis, and benefits can be received after 12 months of voluntary contributions.²⁸⁰

In **France**, self-employment and categories of entrepreneurship are well-established. As a result, there are well-defined forms of many social protections for different categories of self-employed workers. Some forms of social protection are available to all workers as part of the social security system: this includes healthcare, pensions and family benefits.²⁸¹

In **Italy**, the self-employed have limited access to protection. Some categories of self-employed workers (dependent self-employed, and self-employed workers in the professions, according to Eurofound 2017) have compulsory coverage and access to unemployment benefits. These groups also receive healthcare and maternity care/leave, as well as benefits for accidents at work, provided they meet eligibility criteria.²⁸² In other areas (for example, sick leave), coverage of the self-employed is very limited. In **Spain**, as Eurofound note, the self-employed are protected in a number of key areas, notably healthcare and maternity care, family benefits, invalidity and pensions. However, others (accidents at work, sickness benefits, maternity leave, unemployment insurance) are voluntary in nature and take up is relatively low.²⁸³

Poland is categorised as a Member State where there is no specific protection for the self-employed, but some elements of universal provision. This universality in protection can be

²⁷⁵ Ibid.: 48.

²⁷⁶ Spasova et al. 2017: 38.

²⁷⁷ Eurofound 2017a: 53.

²⁷⁸ Ibid.

²⁷⁹ Spasova et al. 2017: 36.

²⁸⁰ Ibid.: 36.

²⁸¹ Eurofound 2017a: 48.

²⁸² Ibid.: 50.

²⁸³ Ibid.: 51.

seen in the area of healthcare and family benefits. A general social protection scheme covers self-employed workers, as well as others, for pensions and unemployment.²⁸⁴ Other aspects of protection have to be opted into by the self-employed.

The **UK** and **Bulgaria** are seen as Member States where there is very limited social protection afforded to the self-employed. In **Bulgaria**, compulsory protection for the self-employed can only be seen in the areas of old age.²⁸⁵ Other schemes are voluntary, and require social security contributions. Similarly, in the **UK**, social protection for the self-employed is much more limited than in many of the other Member States, with Spasova et al.²⁸⁶ noting that the self-employed only have access to means-tested unemployment benefits.

4.5.5. Litigation concerning classification and misclassification

The emergence of platform economy work has precipitated **litigation concerning the classification of the contracts of platform workers**. In the USA, the key cases of *O'Connor v Uber Technologies, Inc.*²⁸⁷ and *Cotter v Lyft*²⁸⁸ saw drivers in California working through the ride-sharing app Uber (four drivers on behalf of a class of over 40,000) and its biggest rival Lyft challenging the categorisation of their relationship with the platforms as self-employed contractors. In *O'Connor* the drivers claimed that they were employees and sought to enforce the right to minimum wages and overtime pay.²⁸⁹ They later agreed to settle for a payment of \$100 million²⁹⁰ and an agreement that workers could access arbitration before dismissal.²⁹¹ *Cotter* was similarly settled with a reported agreement of \$12.25 million payment to drivers and agreements to provide access to arbitration to resolve dismissal and pay issues.²⁹² The cases had the potential to bring a degree of clarity to the status of Uber and Lyft drivers (and by analogy platform workers under similar arrangements), but in light of the opacity of the tests for employee status, the additional uncertainty arising from the decision that under California law the question was to be resolved by a jury and the significance of proposals to provide for arbitration in dismissal, Cherry and Aloisi²⁹³ suggest that settlement was perhaps inevitable.

Litigation in **France** has tackled the question of whether a platform provider could have been employed through a contract of employment. In January 2017, a driver working for the French start-up and Uber competitor LeCab won the right to be classified as an employee because the company imposed an exclusivity clause on him (other issues such as directing his hours and their capacity to impose sanctions on him were not seen as deciding factors).²⁹⁴

In the **UK** case of *Aslam, Farrar and others v Uber*,²⁹⁵ around 20 Uber drivers (and members of the GMB union) claimed that the written terms of their agreement with UBV (a Dutch corporation with headquarters in Amsterdam) misrepresented the true agreement. They claimed that they fell into the hybrid category of "worker"²⁹⁶ and were thus within the scope of working time protection and eligible for the National Living Wage. The workers claimed

²⁸⁴ Ibid.: 50.

²⁸⁵ Ibid.: 51.

²⁸⁶ Spasova et al. 2017: 38.

²⁸⁷ No. C-13-3826 EMC, 2015 WL 5138097, at *1 (N.D. Cal. Sept. 1, 2015).

²⁸⁸ 60 F. Supp. 3d 1067 (N.D. Cal. 2015).

²⁸⁹ Cherry and Aloisi 2017: 644.

²⁹⁰ The parties continue to negotiate the final settlement following the court's rejection of it.

²⁹¹ Cherry and Aloisi 2017: 644.

²⁹² Chappellet-Lanier 2016.

²⁹³ Cherry and Aloisi 2017: 646.

²⁹⁴ La Tribune 2017: 1.

²⁹⁵ Case Numbers: 2202551/2015 & Others 28 October 2016.

²⁹⁶ As set out in the Employment Rights Act 1996 s230(3)(b). Available at: <https://www.legislation.gov.uk/ukpga/1996/18/contents>.

that they were workers of ULL (a **UK** company, of which UBV is the parent company, which holds a private hire vehicle operations licence for London) and thus under the jurisdiction of the law of England and Wales. By contrast Uber claimed that the drivers were independent contractors and that Uber simply acted as an agent to bring drivers into contractual agreements with passengers (as such there is no contract for services between Uber and drivers). They also argued that even if drivers did have a contract with Uber then that contract was with UBV and thus within the jurisdiction of the Netherlands. In that scenario, the drivers would fall within the scope of EU working time provisions but not the National Living Wage legislation that is a national provision applying in the **UK**.

The Employment Tribunal held for the drivers. They concluded that when a driver a) has the app switched on, b) is within the territory in which they are authorised to work and c) is able and willing to accept assignments, they are “working for Uber under an Uber contract”.²⁹⁷ The Tribunal held that the driver–passenger relationship was “a pure fiction which bears no relation to the real dealings and relationships between the parties”.²⁹⁸ The Tribunal was willing to infer a contract between Uber and the drivers and found that the said contract fell “full square” within the **statutory definition of worker**.²⁹⁹ It also held that the contractual relationship was with ULL rather than UBV, since it was the point of contact between Uber and the drivers and carried out such functions as recruitment, control, discipline and dismissal.³⁰⁰

The implication of the above conclusions was that the drivers’ contracts fell within the scope of the Working Time Regulations 1998 and the drivers were **considered to be working at Uber’s disposal**, while the conditions set out in the paragraph above were met. With regard to the National Living Wage, the Tribunal concluded that Uber drivers perform “unmeasured work” and thus the relevant hours for calculating the hourly rate encompass “hours worked”. The Tribunal did not go on to apply this provision aside from in relation to the very narrow question of whether time spent driving from home to the territory in which they are authorised to drive “counts” as hours worked. The Tribunal concluded that it did not. The inference here is that drivers are working for National Living Wage purposes between rides. Such a finding would have implications for the **pay arrangements** of Uber drivers (currently drivers receive passenger payment per ride, less a proportion subtracted by Uber as a fee) and challenge the wider “on demand” model. We should stress that the Tribunal did not reach this conclusion in this case and the matter would need to be clarified through further litigation. In another Employment Tribunal decision, a bicycle courier who worked for CitySprint successfully argued that she was a worker and therefore within the scope of National Living Wage and Working Time legislation.

Employment Tribunal decisions are first instance decisions and are thus not binding on other Employment Tribunals. However, litigation is beginning to advance up the court hierarchy. Uber unsuccessfully appealed the Employment Tribunal decision that drivers are workers within the Employment Appeal Tribunal (EAT). The EAT upheld the Employment Tribunal’s approach to applying the definition of worker and the Employment Tribunal’s findings concerning the application of National Living Wage and working time provisions.³⁰¹ Another relevant case has reached the Court of Appeal: *Pimlico Plumbers Ltd v Smith*.³⁰² Here, it was held that a plumber who was working under a contract that described him as a “self-employed operative” for Pimlico Plumbers was a worker for the purposes of his employment rights. Of

²⁹⁷ Case Numbers: 2202551/2015 & Others 28 October 2016: Para 26.

²⁹⁸ Ibid.: Para 91.

²⁹⁹ Ibid.: Para 93.

³⁰⁰ Ibid.: Para 98.

³⁰¹ *Uber B.V. and Others v Mr Y Aslam and Others* UKEAT/0056/17/DA.

³⁰² [2017] EWCA Civ 51.

particular significance to the conclusion that Mr Smith was a worker were **a minimum number of hours to be worked each week, and the requirement to wear a uniform** and to drive a Pimlico Plumbers vehicle. This case has implications for platform workers employed under similar terms.

Another **UK** case, recently decided in another domain by the Central Arbitration Committee (**UK**), is the *IWGB Union & Rooffoods Limited T/A Deliveroo*. As discussed above, the case represented an **alternative route to gaining recognition of worker status**. The riders' arguments, as noted above, that they were workers for the purposes of collective bargaining were unsuccessful (because of the existence and operation of a substitution clause). It should be noted that the majority of the litigation in the **UK** has concerned *worker* rather than *employee* classification. However, press reports suggest future litigation will also address employee status. The litigation discussed above is at its early stages but suggests that the terms and conditions of significant numbers of platform workers may in fact not represent the true agreement between platforms and workers. This is a key issue and **placing the onus on workers themselves** to challenge the categorisation of their status is **not an efficient way to address it**. Moreover, given the uncertainty and expense (particularly, until recently, in the **UK**) of enforcement mechanisms this may lead to injustice.

4.6. Norms derived from common or judge-made law, or jurisprudence

The judiciary often play a key role in applying and interpreting the definition of the employment relationship. As explained, the courts are already dealing with litigation in this area and are therefore required to apply existing legal definitions to the new context of platform work. To highlight the difficulties that the judiciary face, Prassl and Risak³⁰³ give the following example:

“an exasperated District Judge noted in the course of ongoing U.S. litigation, the task of determining worker status is akin to being “handed a square peg and asked to choose between two round holes. The test the ... courts have developed over the 20th Century for classifying workers isn't very helpful in addressing this 21st Century problem. Some factors point in one direction, some point in the other, and some are ambiguous.”

Legal commentators have begun to propose ways in which the judicial interpretation of work contracts could **adapt to the challenges posed by platform work**. Davidov,³⁰⁴ for example, asserts the importance of a purposive approach to interpretation. This provides the potential to overcome a “technical-legalistic application of tests that could be outdated, instead looking for the ultimate goals behind labour laws – and consequently behind the distinction between “employees” and independent contractors – to decide who should be protected”.

In a different vein, Prassl³⁰⁵ (focussing on the **UK** and **Germany**) discusses turning the received analytical approach “on its head” by seeking to identify an employer, rather than to classify the position of the “worker” within the contractual arrangements. This “functional concept of the employer” has been applied by Prassl and Risak to platforms. They argue that courts have tended to try and identify the individual contractual relationships within which the work is performed (for example crowdworker-crowdsourcer, crowdworker-crowdsourcing platform) and then tries to appraise each in turn in order to identify whether an employment relationship has arisen. This, they argue overlooks the triangular or multilateral nature of the overarching relationships and thus the broader context and economic effects of these

³⁰³ Prassl and Risak 2016: 620.

³⁰⁴ Davidov 2017: 3.

³⁰⁵ Prassl 2015.

“fragments” is ignored.³⁰⁶ Their proposed route to overcoming this problem is to shift the focus onto a **unitary analysis of the employer**, and to take a multi-functional view of the concept of an employer that is responsible for: the inception and termination of the employment relationship; receiving labour and its fruits; providing work and pay; managing the enterprise – internal market; and managing the enterprise – external market.

This approach allows for the identification of a single entity or a combination of entities. Where the exercise of one or more employer functions occurs, it should **trigger the equivalent regulatory responsibility**. Prassl and Risak apply this framework to two platform case studies: Uber (an example of a single-entity employer) and TaskRabbit (an example of shared exercise of functions) and conclude that this approach offers the potential for multiple entities to be seen as employers, which would allow for a range of actors to take on or to share the obligations associated with employment depending on their role. Such an approach has the flexibility to be applied in different regulatory domains.

The key point in this section is that judges are using the legal tools they have to address legal issues in the platform economy. There is a need for innovation to help judges to adapt to the **new realities of work in the platform economy** without overstepping their role. This is an issue that we take up in the recommendations to the report.

4.7. Norms derived from supranational legal systems such as the EU and ILO

4.7.1. The definition of worker within EU Law

Employment law is, in the main, derived from the national or subnational levels. However, the EU has developed a body of legislation that sets common minimum labour standards applicable to those operating within the single market. Its purpose is to prevent a “race to the bottom” of employment conditions in response to increased price competition associated with the realisation of a single market for goods and services.³⁰⁷ Competence for social policy (including employment protection and social security) is shared between the EU and the Member States. In the areas of working conditions, social security and social protection of workers the EU “shall support and complement the activities of the Member States”.³⁰⁸ Nevertheless, a collection of directives regulate workers’ rights and obligations in a range of areas encompassing working time, information on employment conditions, equal treatment for part-time, fixed-term and agency workers, anti-discrimination, collective redundancies and the transfer of undertakings. Furthermore, where workers move to work in another Member State, EU law underpins their rights to residence and to equal treatment within the host State. The definition of worker for the purpose of EU law therefore determines who benefits from the protections available and who does not. However, the CJEU has made it clear **there is no one definition of worker in EU law**; rather, the definition varies in relation to the relevant area or provision. Moreover, some provisions of EU law defer to the law, collective agreement or practice in the Member State in order to define their personal scope. Freedland and Kountouris³⁰⁹ identify, as a “striking feature” of this body of law, the “inconclusiveness and incoherence in respect of the personal scope of its application”. In order to determine whether someone working within the platform economy falls within the protection of EU labour law it would therefore be **necessary to consider the personal scope of each relevant provision in turn**. Nevertheless, there is considerable “learning across the provisions”.³¹⁰ The CJEU has drawn in particular on the (extensive) case law that

³⁰⁶ Prassl and Risak 2016: 634.

³⁰⁷ European Commission 2016a: 11 n.41, 12.

³⁰⁸ Art 153 TFEU.

³⁰⁹ Freedland and Kountouris 2011: 390.

³¹⁰ Barnard 2014: 200.

defines “workers” under the Free Movement of Workers provisions when interpreting the definition of worker for other purposes (such as that used within the Working Time Directive and Equal Pay law). Moreover, the Court has also made clear that definitions of worker within EU law should be given a broad meaning.

Legislative measures emanating from the EU define the term “worker” for the purposes of establishing their scope. *Cavalier and Upex*³¹¹ distinguish between autonomous EU definitions and a “Russian Doll concept” where it is left to the domestic law of the Member States to determine the definition of worker or work relationship. Some iterations of the Russian Doll concept call for the use of a broad definition of “workers” as defined within the Member States. *Cavalier and Upex* give the example of the 1996 Parental Leave Directive which applies to “all workers, men and women, who have an employment contract or employment relationship as defined by the law, collective agreements or practices in force in each Member States”.³¹² Others, such as the 1991 Directive on the information to be supplied to employees (the “written statement directive”), use the narrower term “employee”. This directive states that it is to apply to “every paid employee having a contract or employment relationship defined by the law in force in a Member State and/or governed by the law in force in a Member State”.³¹³ The European Commission recently began to consult with the Social Partners concerning plans to broaden the scope of this directive to include “new forms of employment” including platform work “[s]o that no one is left behind”.³¹⁴

Cavalier and Upex note, however, that there are some circumstances where an EU definition of worker is required. This tends to be the case where the provisions in question **move away from coordination and towards harmonisation** within a given area.³¹⁵ Even where relevant directives do not give a precise EU definition of worker it has sometimes been concluded that an EU level definition is required (a key example is the Health and Safety Directive of 1989).³¹⁶ A key area in which an autonomous EU definition of worker *has* been developed is that of the Free Movement of Workers. In this area, an intentionally broad definition is used. As a result, the jurisprudence in this area can be seen as an example of a more inclusive way to define the scope of legal protection.

4.7.2. Definition of the worker within free movement provisions

In the following section, we briefly look at the key elements of the definition of worker for the purposes of free movement provisions and highlight any difficulties that this may pose for workers providing services in the platform economy. As noted above, the definition of worker that is used within the free movement provisions has informed the approach taken to interpreting the scope of some other provisions of EU labour law. Moreover, there have been calls to improve the uniformity and clarity of EU labour law by using this definition throughout.³¹⁷

The CJEU has developed a broad definition of worker for the purposes of free movement.³¹⁸ Moreover, it has also emphasised that the legal construction of the relationship at national

³¹¹ *Cavalier and Upex* 2006.

³¹² Directive 96/34/EC of the Council of 3 June 1996 concerning the framework agreement on parental leave concluded by UNICE, ECPE and ETUC, OJEC no L 145 of 19 June 1996, 4 (clause 1.2 of framework partnership) (cited by *Cavalier and Upex* 2006: 606).

³¹³ Directive 91/533/EEC of the Council of 14 Oct 1991, on an employer’s obligation to inform employees of the conditions applicable to the contract or employment relationship, OJEC no L 288 of 18 Oct 1991, 32 (Art 1.1).

³¹⁴ European Commission 2017b.

³¹⁵ *Cavalier and Upex* 2006: 606.

³¹⁶ Directive 89/391/EEC.

³¹⁷ For example, McKay et al. 2012: 12.

³¹⁸ Case C-444/93 *Megner & Scheffel* ECLI:EU:C:1995:442.

level is **immaterial for the purposes of the EU provisions**,³¹⁹ and the formal classification of a person as self-employed at national law is not conclusive.³²⁰ In particular, the definition requires:

- remuneration;
- the identification of a relationship based on subordination;
- the work must be a “genuine and effective economic activity”; and not on “such a small scale as to be purely marginal and ancillary”.

As noted by O'Brien et al.,³²¹ **remuneration** has been given a broad definition covering consideration for work provided. For example, in one case it was found that “remuneration” could encompass meeting material needs quid pro quo for services provided (including board and lodging and pocket money).³²²

A key factor in determining worker status is some element of **subordination** on the part of the worker. Nevertheless, a level of autonomy is allowed for in this definition; for example, it has been held that company directors, who carry out their activities under the direction or control of another part of the company and who can be removed from their duties, satisfy the criteria for being treated as workers.³²³ In another case, the President of a Port Authority could be regarded as a worker.³²⁴

The Commission notes that issues for platforms are likely to include the question of **whether a platform determines the choice of activity, remuneration and working conditions**. Key questions for platform workers in this area include:

- How much choice does a worker have concerning the work that they do?
- To what extent can the worker determine the conditions of employment?
- Who pays for the work (do platforms merely process payment deposited by end-users)?

“Genuine and effective” but not “marginal and ancillary” economic activity is more difficult to determine than that of remuneration.³²⁵ O'Brien et al. suggest that the CJEU's case law does not give very clear guidance on how to distinguish between “genuine and effective” and “marginal and ancillary” work for the purpose of the free movement provisions. They suggest that this borderline is “becoming increasingly important in a changing labour market, with more at stake as the welfare rift between economically active and inactive becomes crucial”.³²⁶ They also note that the existence of this threshold places the onus on the worker to show that their work was not marginal and ancillary, in effect reversing the burden of proof and creating a (rebuttable) assumption that workers are in marginal and ancillary work. A high evidential burden is placed onto the worker to show that the threshold has been passed.

³¹⁹ Case C-66/85 *Lawrie-Blum* ECLI:EU:C:1986:284.

³²⁰ Case-C-256/01 *Allonby v Accrington & Rosendale College* ECLI:EU:C:2004:18.

³²¹ O'Brien et al. 2015.

³²² Case C-96/87 *Steymann v Staatssecretaris van Justitie* ECLI:EU:C:1988:475. This is a case from the area of freedom to provide services however O'Brien et al (2015) assert that it has significance for all of the economic free movement provisions.

³²³ Case C-232/09 *Danosa v LKB Lizings* ECLI:EU:C:2010:674.

³²⁴ Case C-270/13 *Haralambidis v Calogero Casill* ECLI:EU:C:2014:2185.

³²⁵ O'Brien et al. 2016.

³²⁶ *Ibid.*: 2016: 8.

The piecemeal approach to defining the personal scope of EU employment law “has led to a taxonomical quagmire”.³²⁷ One of the recommendations of McKay and colleagues in their study on precarious work produced for the European Commission suggests:

“Recasting EU labour law directives so as to render them applicable to all ‘workers’ as defined by the Court of Justice in its established case law on the ‘free movement of workers’”.³²⁸

The Commission and the European Parliament have highlighted the complexity of implementing a single definition of worker throughout EU law, but they nevertheless acknowledge the value of greater clarity.³²⁹ The European Parliament called for an initiative to achieve a level of convergence between the definitions that are used. It also urged the Member States to implement the 2006 ILO recommendation on the employment relationship (see 4.7.4 below).³³⁰

4.7.3. The protection of “atypical workers” within EU law

A series of EU directives provide a level of protection for workers employed in certain forms of atypical employment (part-time work,³³¹ fixed-term work³³² and temporary agency work³³³). The purpose of these provisions is not simply to give rights to atypical workers but to stimulate wider labour market reforms with an emphasis on increasing flexibility.³³⁴ The **Part-time** and **Fixed-term work directives** implement framework agreements concluded through social dialogue at the EU level, while the **Temporary Agency Work (TAW) Directive** was adopted through the ordinary legislative procedure after the social partners were unable to reach an agreement through negotiation. The directives seek to balance flexibility and security. On the one hand Member States are **encouraged to remove constraints** to the take up of non-standard work, while on the other a limited right to equal treatment and information rights are introduced for workers.³³⁵ The principle of equal treatment for part-time, fixed-term or temporary agency workers³³⁶ uses as its point of comparison those in standard employment. As such the directives are informed by the norm of standard employment and are not tailored to addressing the vulnerabilities experienced by atypical workers. Moreover, the principle of equal treatment is fairly narrowly construed (particularly within the TAW directive) and employers can justify differential treatment on objective grounds.

The **European Pillar of Social Rights**³³⁷ contains guiding principles intended to underpin the development of the social aspect of the EU over the next 10 years. One of the principles

³²⁷ Freedland and Kountouris 2011: 389.

³²⁸ McKay et al. 2012: 12.

³²⁹ COM (2007) 627 final: 7.

³³⁰ P6_TA-PROV(2007)0339 para 37.

³³¹ Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC ELI: <http://data.europa.eu/eli/dir/1997/81/1998-05-25>.

³³² Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP ELI: <http://data.europa.eu/eli/dir/1999/70/1999-07-10>.

³³³ Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work ELI: <http://data.europa.eu/eli/dir/2008/104/oj>.

³³⁴ Bell 2011: 255.

³³⁵ Adams and Deakin 2014: 800.

³³⁶ For temporary agency workers, the principle of equal treatment extends to ‘basic working and employment conditions’ only.

³³⁷ The Commission put forward the European Pillar of Social Rights in the form of a Commission Recommendation in April 2017 (C(2017) 2600 final). Its purpose is to provide guiding principles to underpin the development of the social aspect of the EU over the next 10 years. The EU Employment and Social Policy ministers have since agreed unanimously on the text of the ‘Proclamation of the European Pillar of Social Rights’, proclaimed jointly by the European Parliament, the Council and the Commission (it was signed at The Social Summit Social Summit for Fair Jobs and Growth on 17 November 2017). This Pillar thus has high level political endorsement. The Pillar

– “secure and adaptable employment” – continues an approach to atypical employment that combines equal treatment with encouraging the emergence of new forms of employment, while also seeking to prevent abuses of atypical employment. Under the umbrella of the European Pillar of Social Rights the European Commission has recently entered into discussions with the social partners with a view to **revising the 1991 Directive** on the information to be supplied to employees (the “**written statement directive**”). As noted above the central purpose would be to broaden the scope of the directive to cover those working under new forms of employment including platform workers. However, the Commission also discusses a second potential purpose, to provide all workers with a number of new minimum rights in order to tackle precariousness. Rather than being targeted at “atypical workers” these rights would apply to all workers but would be of relevance to atypical workers. Such rights might include: the right to predictability of work; a right to request another form of employment and to receive a reply in writing; and a right to a maximum probation period.³³⁸ This potential proposal thus marks a shift in approach away from identifying atypical forms of work and applying an equal treatment principle and towards creating provisions that are tailored to vulnerabilities associated with precarious work.

The example of the **TAW Directive** is worth looking at in particular here. On 15 June 2017, the European Parliament adopted a Resolution on the Collaborative Economy.³³⁹ As part of the recommendations, the Resolution called on the European Commission “to examine how far the Directive on Temporary Agency Work (2008/104/EC) is applicable to specific online platforms; considering that many intermediating online platforms are structurally similar to temporary work agencies (triangular contractual relationship between: temporary agency worker/platform worker; temporary work agency/online platform; user undertaking/client)”.³⁴⁰ So, is there potential for the TAW Directive to be applied to platforms?

There do appear to be some important similarities between platforms and temporary work agencies. In many cases, both involve a third-party intermediating between an end-user and worker, creating a triangular relationship.³⁴¹ Temporary work agencies and platforms have both been characterised as a “disruptive” (positive or negative) force on sectors and on traditional, standard employment relationships, with, in some cases, expansion strategies that seek to exploit or take advantage of differential employment protection rights in particular localities, be they regions, countries or Member States. The boundaries between temporary work agencies and platforms are also being blurred further with the emergence of partnerships between the two types of business (for example, Kelly Services linking up with the online platform Upwork), as a means for agencies to get access to new markets and potential workers.³⁴² New forms of staffing agency are also emerging which are totally platform based (such as Coople).³⁴³

Current legal debates and cases in the **UK** are worth considering in this respect. As highlighted recently by Newman,³⁴⁴ Uber has centred its appeal about **UK** worker status on the fact that it sees itself as an “**agent**”. While this is taken to mean an agent in the legal

itself is not legally enforceable but will serve to guide the future proposal and introduction of specific law or policy at the appropriate level (European Commission 2017e).

³³⁸ C(2017) 6121 final :12-13.

³³⁹ European Parliament resolution of 15 June 2017 on a European Agenda for the Collaborative Economy (2017/2003 INI): <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2017-0271>.

³⁴⁰ Ibid.: para 46.

³⁴¹ Bronstein 1991; Forde 2001.

³⁴² Kessler 2015.

³⁴³ Colson 2016.

³⁴⁴ Newman 2017.

sense of a principal-agent relationship, rather than a temporary work agency specifically, this is certainly a case to follow with interest, as it will give a clearer indication of the legal view of whether platforms are agents. The Employment Appeal Tribunal in this case agreed with the approach of the Employment Tribunal which rejected the label of “agent and principal” within the written terms of the contract and held that the true nature of the relationship was that drivers were workers for Uber. The EAT was however clear that which side of the divide between worker and self-employment an individual falls “will inevitably be case-and fact-sensitive”.³⁴⁵

One further point is worth noting about the potential and limitations of seeking to include platforms under the remit of the TAW Directive. The TAW Directive, like other Directives, offers some potential for equalising treatment for “non-standard” and “atypical” workers, and in that sense, it may have some role to play for protecting platform economy workers. However, what is clear, six years after the TAW Directive was introduced, is that not all forms of agency worker are protected or receive equal treatment.³⁴⁶ Derogations in the Directive have resulted in agencies creating new forms of business models and approaches to temporary staffing, which, in countries such as the **UK**, where such forms of business models have been specifically written in to the transposed Directive, have been used by agencies as “workarounds”, contrary to the spirit of the regulations.³⁴⁷ It would seem likely that similar “workarounds” and new forms of contractual relations between end-users, platforms and workers might be created should some platforms be encompassed within the TAW Directive. Overall, it seems difficult to generalise about what legal form the platform work relationships takes: it really depends on the interaction between a) the national legal framework and b) the way that the relationships are characterised by the parties.

4.7.4. The ILO

The International Labour Organisation has long been working in the area of “non-standard employment”. In early 2015, a Tripartite Meeting of Experts on Non-Standard Forms of Employment called on ILO Member States, employers’ and workers’ organisations to devise policy solutions to address “decent work deficits” associated with non-standard forms of employment. Section 4.1 discussed some of the measures recommended by the ILO in a recent report on non-standard employment. The legislative responses proposed within that report aim to align, as far as possible, standard and non-standard employment by addressing regulatory gaps in the following areas: equal treatment, minimum hours and other safeguards for part-time, on-call and casual workers, addressing employment misclassification, restricting the use of non-standard employment and assigning obligations and liabilities in contractual arrangements involving multiple parties.³⁴⁸ That report sets out an agenda for current and future work to address the challenges raised by non-standard work. Nevertheless, existing ILO provisions are of relevance to the regulation of platform work, in particular the Employment Relationship Recommendation 198³⁴⁹ contains a number of relevant recommendations concerning the employment relationship and measures to address misclassification. The European Parliament has urged Member States to implement this recommendation. Of particular relevance to the issue of the classification and misclassification of contracts to perform platform work is recommendation 4, which states that national policy should at least include measures to:

³⁴⁵ Uber B.V. and Others v Mr Y Aslam and Others UKEAT/0056/17/DA at para 101.

³⁴⁶ See Forde and Slater 2014; Oliver, 2017.

³⁴⁷ Forde and Slater 2014.

³⁴⁸ ILO 2016a.

³⁴⁹ ILO 2013a, 2013b.

- a) provide guidance for the parties concerned, in particular employers and workers, on effectively establishing the existence of an employment relationship and on the distinction between employed and self-employed workers;
- b) combat disguised employment relationships in the context of, for example, other relationships that may include the use of other forms of contractual arrangements that hide the true legal status, noting that a disguised employment relationship occurs when the employer treats an individual as other than an employee in a manner that hides his or her true legal status as an employee, and that situations can arise where contractual arrangements have the effect of depriving workers of the protection they are due;
- c) ensure standards applicable to all forms of contractual arrangements, including those involving multiple parties, so that employed workers have the protection they are due;
- d) ensure that standards applicable to all forms of contractual arrangements establish who is responsible for the protection contained therein;
- e) provide effective access of those concerned, in particular employers and workers, to appropriate, speedy, inexpensive, fair and efficient procedures and mechanisms for settling disputes regarding the existence and terms of an employment relationship;
- f) ensure compliance with, and effective application of, laws and regulations concerning the employment relationship; and
- g) provide for appropriate and adequate training in relevant international labour standards, comparative and case law for the judiciary, arbitrators, mediators, labour inspectors, and other persons responsible for dealing with the resolution of disputes and enforcement of national employment laws and standards.

The provisions contained with this existing measure address many of the issues concerning the issue of misclassification of contractual arrangements identified earlier in this chapter. Nevertheless, ILO recommendations are non-binding. They serve as guidelines for the Member States and ratification is not needed.

Conclusion

This chapter has discussed the role of the employment relationship as a central concept in the allocation of social protection. Looking at the realm of employment law, the chapter has also sought to map the “normative ordering of platform work” and in so doing to identify key issues that emerge for the employment protection of those who provide services through platforms at the different regulatory layers. The picture that emerges is one of complexity and opacity as new ways of organising work confront existing regulatory regimes operating within different Member States and at the supranational level. Nevertheless, key common themes are apparent. The issue of the classification of contracts for the purpose of determining the personal scope of employment legislation is a thread that runs throughout this chapter. This is a long-standing concern amongst labour lawyers and has been partially addressed in different ways both at the national level and at EU level. What has not been tackled however are the deeper normative questions of how people who work flexibly ought to be protected from key social and economic risks. We note that regulatory matters cannot be considered in isolation and that building an adequate legal response to the problems we identify must entail engaging with political actors and economic and social institutions as well as embracing the technological opportunities to which platforms respond.

5. POLICY RECOMMENDATIONS

This research has clearly demonstrated two key findings. First, that those engaged in platform work are significantly less likely to have access to important social protections than are other workers. A quarter of respondents to our survey gained more than half of their personal income from platform work. Those who were more dependent on platform work had greater difficulty paying monthly bills. The **more reliant** a worker becomes on platform work, the **less likely they were to have basic social protections**. Only a small proportion of platform workers were currently paying into a pension. Furthermore, where social protection was available, it was typically because workers also **had employment outside the platform economy**.

Second, experts and practitioners have already come up with a range of **potential policy measures** to address this deficit. Moreover, it should be noted that, despite the shortage of hard evidence in this area, careful consideration of what evidence is available has enabled the development of policy initiatives and proposals. Indeed, in several areas, there is even an emerging consensus about initial steps that might usefully be taken. That is, **the current lack of information** has hampered attempts to develop policy in this area, but this does not prevent us from saying anything at all.

Consequently, this chapter will draw together what seem to be the most useful and practical ways to address the lack of social protections for platform workers, building on the analysis in Chapters 2, 3 and 4. The policy recommendations outlined below are based on the research presented, including themes that emerged from our programme of interviews, as well as proposals outlined previously by practitioners and authorities in the field. Three recent policy contributions, in particular, have helpfully drawn together a considerable range of experience and research on platform work, and their proposals have informed the formulation of our own recommendations. The first of these was the **Taylor Review of Modern Employment Practices**,³⁵⁰ commissioned by the **UK** government in October 2016, which investigated a range of issues associated with the growth of non-standard employment, including platform work, and which reported in July 2017. Taylor made a large number of recommendations, some of which have been included here. The second set of policy proposals has been developed by a group of platform work researchers, and is more narrowly focussed on platform work, **setting out a series of standards** that can be considered as **best practice** for platforms that mediate paid work in the online economy.³⁵¹ These proposals have informed our policy recommendations for setting minimum standards for platform in their relations with platform workers. Third, we have drawn on recently published research conducted at the University of Hertfordshire, investigating the nature and extent of platform work across seven European countries.³⁵² As will be seen, our proposals also align with a number of those put forward by the European Parliament in their resolution of June 2017.³⁵³

5.1. Data provision

Good policy requires good evidence. Many commentators have noted the shortage of detailed and reliable data for the size and growth of the platform economy, and the extent of employment within it, and the findings of this study certainly support those accounts. The European Parliament has recently highlighted the increased 'traceability' of activities undertaken via online platforms, driven by tax compliance and enforcement requirements.³⁵⁴

³⁵⁰ Taylor 2017.

³⁵¹ Silberman 2017.

³⁵² Huws et al. 2017.

³⁵³ European Parliament 2017b: paras 36-49.

³⁵⁴ European Parliament 2017b: para. 40.

However, considerable gaps in information remain, despite many online platforms actively gathering and analysing data on their workforces. Therefore, we recommend the following:

- Steps should be taken at both EU and Member State levels to ensure that national statistical agencies **develop appropriate measures of the platform economy, and of employment within it**. In particular, such measures should include the inclusion of appropriate additional questions into existing official survey instruments.
- Furthermore, measures should be put in place to ensure that **labour platforms supply** the relevant authorities with **appropriate and sufficient information** concerning the paid work that they mediate. This will increase ‘traceability’ further, so that legislation can be enforced and sanctions imposed where necessary. Better data can also inform policy development, particularly around social protections, in line with the aims of the European Parliament’s recent Resolution on the Collaborative Economy.³⁵⁵

5.2. Employment Law Reforms

The key issue in relation to employment law and social protections is the growth in the numbers of people excluded from protections due to the classification of platform workers as self-employed (or, in some Member States, in other less protected categories). Moreover, as discussed above, this issue applies not only to platform workers but also more broadly across employment, with the spread of various new forms of insecure work.³⁵⁶ Therefore, the starting point for legal reform is to address the normative aspect (to consider the basis for ensuring protection in the context of evolving economic structures and business strategies). This is a longstanding issue and debates about the role of standard employment relationships as the foundational institution of labour law are ongoing. It is beyond the scope of this report to resolve that debate. Nevertheless, a longer-term solution to the legal issues faced by platform workers must entail these broader considerations. Our research highlights the need to facilitate a shift **from an exclusionary approach** to employment classification and social protections, **towards an inclusive approach that recognises emergent sources of vulnerability** (such as economic dependence) alongside subordination.

Therefore, the EU should build on the work of the European Network of Legal Experts (which has reviewed the characteristics of employment relationships across Member States) towards a review of how existing legal frameworks are being applied and are responding to the emergence of platform work, so as to recognise the extent of new social practices that have become established in recent years. Member States should therefore re-examine the basis on which platform workers are seen as needing protection.

The evolving economy requires new ways to allocate social protections to new groups of workers, as well as new ways to regulate this. In practical terms, it makes sense for Member States to do this in different ways, **as are best suited to their own legal traditions and institutions**. For instance, **Denmark, Bulgaria, UK, and France** have all made moves to adapt the provision of social protections to new forms of employment, but have done so in different ways (see Chapter 4 and Appendices).

An alternative approach has been to argue for the wider application of existing classifications and regulations – such those applying to Temporary Work Agencies or private employment agencies – to include greater numbers of platforms that mediate paid work.³⁵⁷ However, the experience of targeted regulations for particular groups of workers, such as agency or part-

³⁵⁵ European Parliament 2017b: para. 39.

³⁵⁶ Cf. Huws et al. 2017.

³⁵⁷ As, for instance, proposed by Huws et al. 2017: 51.

time workers, shows that where legal definitions are very specific, businesses are able to avoid their scope by adopting sophisticated strategies and legal arbitrage.³⁵⁸ Consequently, we do not recommend that approach in the case of platform workers. Instead, the courts need to be provided with a set of **normative tools**, on the basis of which case-by-case determinations can be made that adjust the provision of protections to evolving employment practices, without the need for repeated revision of legal instruments.

Aside from the classification of contract form, a key issue for those working in the platform economy is the negotiation and enforcement of the terms of their contract. Issues such as clarity, unfair terms and enforcement mechanisms emerge from our research. Developments in the response of consumer law to digital contracting may be a relevant source of good practice particularly in the area of information. A research group on the Law of Digital Services has already published a Discussion Draft of a Directive on Online Intermediary Platforms³⁵⁹ which contains proposals in the area of ratings systems. Platform workers also face considerable obstacles if they try to challenge through the courts any cases of employment misclassification. In such cases, the burden of proof often falls upon the worker; a most onerous burden, when, as is usually the case, the worker lacks easy access to legal expertise or the financial wherewithal to challenge a powerful company. Even trade unions find it difficult to finance a series of often similar cases against numerous companies. In such cases, the existing burden of proof seems only to add further injustice to an already unequal contest.

Legal responses to platform work should also **acknowledge and draw upon the collective aspects of work and employment**. Building an adequate legal response to this problem must entail engaging with political actors and economic and social institutions as well as embracing the technological opportunities to which platforms respond. Legal barriers to collective bargaining amongst service providers through platform work should be evaluated and reconsidered. Furthermore, emergent forms of collaboration and representation that draw on the same technological and social possibilities as existing platforms should be supported.

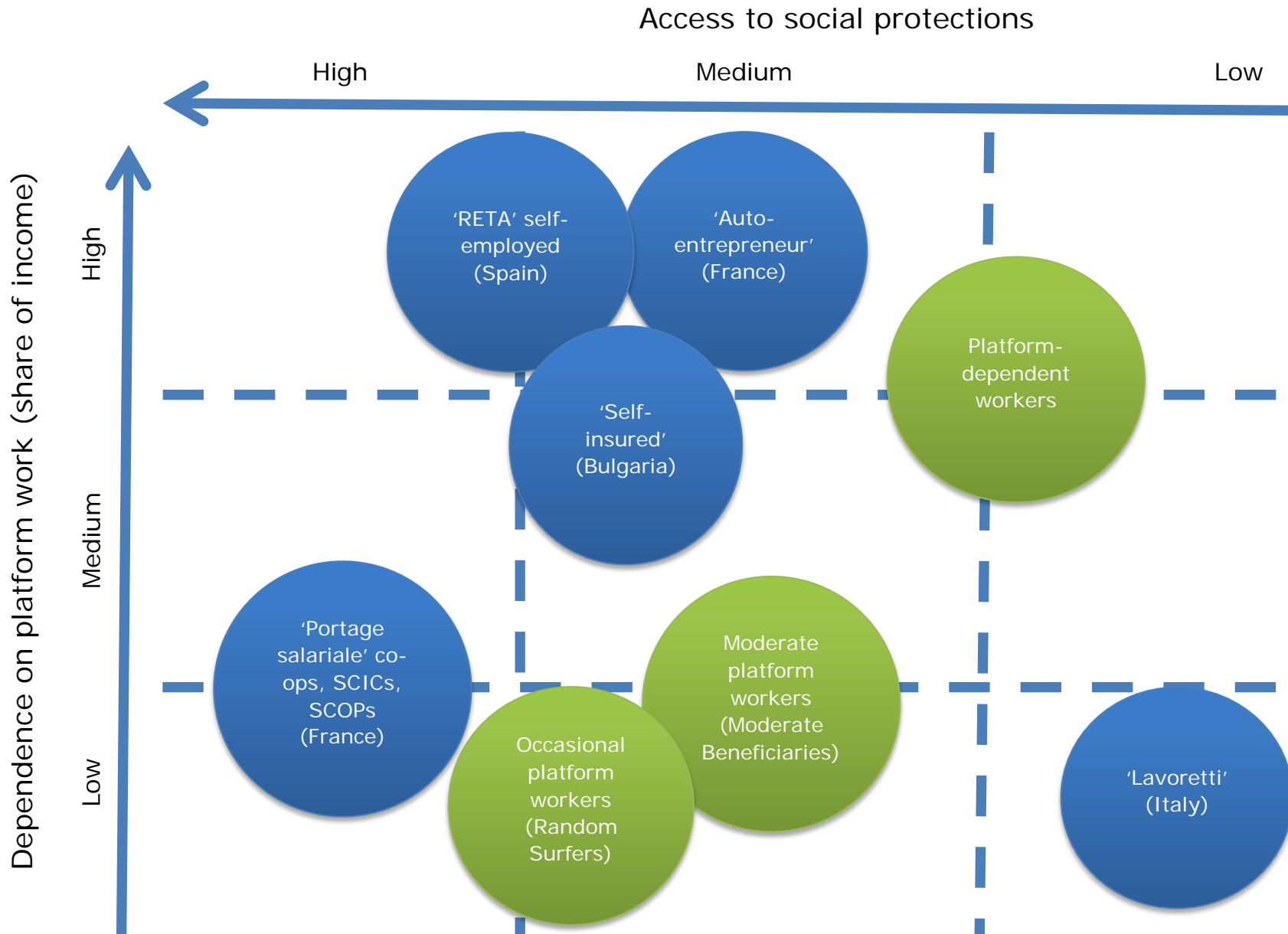
The overall intention of such reforms would be to establish a framework that ensures the *inclusion* of all who need social protections, rather than the *exclusion* of those who do not meet a particular legal definition.

To assist with this, we have constructed a typology (Figure 23), which builds on our empirical data from interviews and our survey (in Chapter 2 and 3) and the legal analysis in Chapter 4. This typology gives an overview of the relationship between the extent to which workers are dependent on platform work – expressed as the proportion of income derived from platform work – set against access to social protections (high, medium or low).

³⁵⁸ Section 4.7.3, above.

³⁵⁹ Busch et al. 2016.

Figure 23: A typology of platform work and social protections (with selected examples)



This typology can be read in two ways. First, as a map onto which workers currently undertaking platform work can be placed – a descriptive, analytical tool. For example, from our survey, we identified three clusters of platform economy workers, who varied in the degree to which they were dependent on platform work for their income (high for platform-dependent workers, low for random surfers etc.), and their access to social protection (low for platform-dependent workers, medium for random surfers etc.). This mapping also allows the specificities of platform working situations in individual Member States to be captured. For example, platform workers with “auto-entrepreneur” status in **France** have some degree of social protection, afforded by this specific status, but this level of social protection is below that secured by emerging *portage salariale*, and co-operative workers.

Secondly, the typology can be seen as advice for establishing how social protection for platform economy workers (in specific contexts, Member States, or working for specific platforms) can be increased. How can specific groups of workers who currently fall on the right hand-side of the chart be moved to the left, and what are the challenges that such movements would entail?

Our specific recommendations are made with such movements in mind, including:

- Simplifying enforcement procedures for individuals both in the area of classification of contract form and in the enforcement of contract terms.
- Reversing the burden of proof in determining employee status, so that, in cases where platform workers challenge misclassification, it is incumbent upon employing entities to prove that persons carrying out paid work *are not* employees.
- Ensuring that enforcement of legal employment status is conducted by an independent authority (as is already the case in some Member States), rather than by piecemeal rulings from the courts.
- Providing full and easily accessible information to all workers, including those engaged in platform-mediated work, concerning their legal rights and entitlements.
- Adaptation of competition rules to permit collective bargaining by (solo) self-employed workers. The European Parliament Resolution on a European Agenda for the Collaborative Economy has highlighted the importance of ensuring that platform workers are entitled to the right of collective bargaining and action.³⁶⁰
- Integration of the self-employed into existing collective bargaining arrangements – which may require legal reforms (e.g. modifying rules around works councils in Germany).
- Trade unions need access to platform workers to inform them about their policies and to potentially organise them.
- Ensuring consistency across labour, tax and social security law, regardless of classification system.
- Clarifying the distinction between intermediate status and genuine self-employment.
- Extending the right to written statement of particulars to “dependent contractors” as well as employees.
- More severe penalties for companies that flout previous rulings against them.

³⁶⁰ European Parliament 2017b: para. 41.

5.3. Social security reforms

This research has added considerable new evidence showing the lack of social protection for platform workers. Furthermore, our evidence strongly suggests that there is considerable overlap between workers in the platform economy and those engaged in other forms of non-standard and insecure work, which often carries similar risks of non-coverage of social protections. Consequently, we are sceptical of any approach that would seek to treat platform workers as a “**special case**”, by introducing social protection arrangement that applied only to this category of worker. Instead, we would recommend a **more inclusive approach**, in line with the legal recommendations outlined above, **designed to encompass the wider, growing population of non-standard workers**. If the growth of platform work has taught us anything, it has shown that we can expect further innovation in employment forms, and therefore an approach that seeks to address wider issues in the coverage of social protections for non-standard workers carries the benefit of being “future-proofed”, at least so far as can be reasonably foreseen.

Fortunately, our research has identified considerable scope for **reform of social security systems to accommodate platform workers** along with other groups of workers who now find themselves increasingly at risk of not being covered by social protections. Consequently, we recommend that the EU and Member States take appropriate steps to reduce differences in treatment across different forms of work, and to expand existing social protection schemes to include non-standard workers – which would encompass most platform workers. These steps should include measures to ensure:

- Membership of state old age security systems to be compulsory for all workers, irrespective of formal status in employment law.
- Continuity of social insurance and workers’ rights when moving from one job to another.
- Reduce or abolish minimum income thresholds for access to social protection schemes, such as health insurance; to be replaced so that members pay a percentage of income.
- Reduce or abolish requirements for continuity of employment for eligibility to social protections.
- Promote moves away from contribution-based systems, towards systems based upon general taxation.
- Similarly promote moves towards universal benefits as part of social protection systems, which remove the need for complex rules and enforcement concerning eligibility.
- Where universality is not in place, steps should be taken to minimise abuse and the misclassification of workers, including effective enforcement (with penalties where appropriate).
- Address under-declaration of income and tax avoidance.
- Take appropriate steps to include self-employed workers in existing social protection schemes as a matter of course.
- Improve effective access (not just statutory access).

In the longer term, consideration should be given to how existing **social protection schemes** might be **adapted** to apply to a growing variety of non-standard forms of work, as well as a growing number of workers engaged in such work. This recommendation is in line with the aspirations and aims of the European Parliament’s Resolution on the

Collaborative Economy,³⁶¹ as well as with the European Commission's current consultation on the provision of social protections for all workers, regardless of legal employment status, under the framework of the European Pillar of Social Rights.³⁶² Such future developments may include the social and employment consequences of the further growth of the internet economy and the spread of automation, raising the potential for jobs to provide fewer working hours, and less predictable income than traditional, standard employment relationships. Since a number of Member States have already introduced schemes to address a number of these issues, we recommend that the EU should encourage the sharing of experience and, where it can be identified, the adoption of best practice. In this report, we have identified some existing national arrangements that may provide models, such as **France** – which already has a relatively well-developed system of social insurance for the self-employed (see Annexe 1).

5.4. Tax reforms

This research has confirmed the importance of taxation policy for driving the growth of non-standard work arrangements in general, and of **platform work in particular. Tax policy therefore affects social protections in two key ways. First, uneven taxation levels across different types of employment currently leads to growing numbers of people being excluded from social protections.** Second, and as a consequence, these uneven tax rates contribute towards reducing the tax-base that might be used to finance social protections. Hence, measures to redress these tax imbalances offer benefits both in terms of reducing non-coverage, and in terms of increasing the affordability of social protection schemes.

We therefore recommend that steps be taken as follows:

- Equalisation of tax across different forms of employment.
- End tax incentives for self-employment.
- Replacement of tax on employment by tax on labour.
- Responsibilities to be placed on platforms to pay into existing systems.
- Close loopholes in regulation.
- Encourage moves away from cash-payment for work.
- Stronger enforcement and penalties needed for companies that evade or avoid taxes.
- Measures to tackle non-declaration of income/tax avoidance by bringing platforms into the system.
- Develop proposals to require companies to be much more transparent about their workforce structure.

5.5. Wage reforms

Social protections are closely linked to wages in a number of ways. In addition to eligibility being often determined by the legal status of the wage-earner, many social protection schemes are funded by deductions from wages. Moreover, social protections designed to alleviate the effects of low pay are triggered when earnings are low – and this research has underlined the problem of low pay among platform workers. As a result, **raising wages in low-paid platform work** would both increase contributions to social protection schemes, while at the same time reducing the immediate need for payments from them. We therefore

³⁶¹ European Parliament 2017b: para. 2.

³⁶² European Commission 2017d, 2017e.

make a number of recommendations around the payment of wages that would have a direct effect on social protection systems.

We recommend that arrangements for the payment of wages should be reformed such that:

- Where statutory minimum wage provisions are in place, these should be adapted so that they include platform workers.
- In particular, where arrangements are in place for the payment of national minimum wage rates to piece workers, such as exist in the **UK**, these should form the starting point for the inclusion of platform workers.
- Consideration should be given to the introduction of higher minimum wage rates for those hours that are not guaranteed as part of the contract. This higher minimum wage could be set at an enhanced level in order to incentivise employers to schedule guaranteed hours as far as is reasonable (at a regular minimum wage). In turn this would reduce the uncertainty that platform workers currently experience over the availability of work and income.
- Reform of holiday pay entitlements, to include people with very flexible working arrangements.
- In the longer term, the EU and Member States should consider whether or not the introduction of Universal Basic Income schemes would help alleviate some of the issues pertaining to low income for platform workers. Our country case studies have highlighted a range of different views amongst stakeholders over the potential for, and effects of Universal Basic Income. Further research is needed to understand these views and the potential for a Universal Basic income to impact upon the experience of work and social protection for those in the platform economy.

5.6. Setting standards for platforms

This research found considerable evidence of concerns over the treatment of those engaged in platform work by the platforms themselves. Many of these concerns were familiar from previous research, including problems around the fair and timely payment of wages, sudden and unexpected terminations of work, extremely long hours, lack of transparency and lack of accessible channels to challenge perceived unfair treatment of workers by platforms. Therefore, we recommend that the EU and Member States adopt **strategies designed to set minimum standards for the fair treatment of workers by platforms**. Broadly, such procedures should ensure the fair and timely payment of wages and settlement of disputes.

We recommend:

- Introduction of independent mediation panels for settlement of platform-worker grievances.
- Provision of information to platform workers concerning employment rights.
- Extension of collective bargaining rights to labour platform workers.
- Task pay terms should be clear.
- Where payment per task is permitted, platforms should review task instructions before work is allocated.
- Strict rules to govern non-payment for tasks performed.
- Where non-payment for tasks is permitted (on platforms, for example, where workers are paid on delivery of a good or service), then analytics and performance indicators of how often payment has not been made to a worker should NOT be used to measure

worker quality. The possibility of unfair and arbitrary use of ratings and reviews has been noted by the European Parliament and we agree that 'rating and review mechanisms should be developed in a transparent way and that workers should be informed and consulted at the appropriate levels, and in accordance with Member State law and practices, on the general criteria used to develop such mechanisms'.³⁶³

- Where non-payment is permitted, customer non-payment rates should be made visible to workers choosing tasks.
- In the event of technical problems with a task or platform, workers should not pay the cost for lost time or work.
- Workers should be able to contest non-payment, work evaluations, and qualification test outcomes.
- Workers should know who their customers are and the purpose of their work.
- Tasks that may be psychologically stressful or damaging (e.g. review of social media content for hate speech, violence, or pornography) should be clearly marked.
- Workers should have a legally binding way to make their needs and desires heard to platform operators, such as union membership, collective bargaining, and, in countries with such structures, works councils and co-determination rights.
- Worker account deactivations should be reviewed by a human platform employee, and subject to fair, transparent and independent review procedures.
- Workers should be able to view and export a complete human- and machine-readable work and reputation history at any time (portability of reputation).
- In general, platforms should be encouraged to adopt responsible corporate governance, good management and strong employment relations.

5.7. Collective representation for platform workers: trade unions, cooperatives, and other intermediaries

There has been considerable prior discussion among experts, researchers, and policy-makers concerning the potential for the collective representation of platform workers, and such discussions were clearly in evidence from this research. Furthermore, our research found a widespread view that some form of collective representation of platform workers would offer numerous potential advantages in terms of redressing the very considerable power imbalances between platforms and workers that are common within this sector. Nevertheless, this research also added considerable evidence to support previous accounts of the extreme variety of work carried out in the platform economy – variety in terms of the type of work carried out, the amount of work, the level of payment, and not least the specific arrangements between worker, platform, and client. Furthermore, significant differences were apparent in the ways in which countries in the study had already attempted to modify existing collective arrangements to include aspects of platform work, in line with their own traditions for conducting employment relations. As a result, it is clear that policy development in this area should be sensitive to national variations, as well as to the variety of platform work, and our recommendations in this area reflect this diversity.

Therefore, we recommend the following:

- Where institutional arrangements already exist for collective bargaining, these should be modified to include workers in the platform economy.

³⁶³ European Parliament 2017b: para. 43.

- Competition rules should be modified to permit collective bargaining by solo self-employed workers.
- Collective representation should not be limited to trade unions alone. Where appropriate, for instance, professional bodies should be permitted to deal collectively with issues raised by platform workers.
- Alternative collective representation might also be achieved under the auspices of co-operativist organisations, such as SMart.be and Smart Italia.³⁶⁴
- However, trade unions should not be unfairly marginalised or excluded from representing platform workers and, therefore, arrangements should be put in place to ensure that platform workers are represented by the organisation of their choice, should they wish to be collectively represented.

³⁶⁴ The model developed by Belgian cooperativist organisation SMart.be to represent freelance artists and other creative workers has recently been extended to include delivery riders for Deliveroo and Belgian platform Take-Eat-Easy (now defunct). This approach gained notable success in negotiating minimum hourly rates of pay, standardised minimum shifts of three hours, insurance, and a number of other benefits for some 4,000 riders. However, in October 2017 Deliveroo unilaterally announced its withdrawal from the agreement, raising questions over the long-term sustainability of this model for representing workers in the platform economy. See CEPS 2017; Dullroy 2017.

REFERENCES

- Acevedo, Das D., 2016. "Regulating employment relationships in the sharing economy", *Employee Rights and Employment Policy Journal*, 20: 1-35.
- Adams, Z. and Deakin, S., 2014. "Institutional solutions to precariousness and inequality in labour markets", *British Journal of Industrial Relations*, 52(4): 779–809.
- Agrawal, A., Horton, J., Lacetera, N. and Lyons, E., 2013. "Digitization and the Contract Labor Market: A Research Agenda", *Working Paper 19525*, National Bureau of Economic Research, Cambridge, MA.
- Akamai, 2016. *State of the Internet Report Q4/2016*, Akamai, Cambridge, MA. Available at: <https://www.akamai.com/kr/ko/multimedia/documents/state-of-the-internet/q4-2016-state-of-the-internet-connectivity-report.pdf>.
- Al-Ani, A., 2015. "Chancen und Risiken", in ver.di (ed.) *Gute Arbeit und Digitalisierung. Prozessanalysen und Gestaltungsperspektiven für eine humane digitale Arbeitswelt*: 10-13. Available at: <https://innovation-gute-arbeit.verdi.de/themen/digitale-arbeit/+co++8f949ef6-5b8b-11e5-85ad-52540059119e>.
- Allen, D., 2015. "The sharing economy", *IPA Review*, 67(3): 24–27, Institute of Public Affairs, Melbourne.
- Armano, A., and Murgia, A., 2017. "Hybrid areas of work in Italy. Hypotheses to interpret the transformations of precariousness and subjectivity", in E. Armano, A. Bove, A. Murgia (eds.) *Mapping Precariousness, Labour Insecurity and Uncertain Livelihoods: Subjectivities and Resistance*, London, Routledge: 47-59.
- Amar, N. and Voissat L-C., 2016. *Les Plateformes Collaboratives, L'emploi et la Protection Sociale*, Inspection Générale des Affaires Sociales, Paris. Available at: <http://www.igas.gouv.fr/IMG/pdf/2015-121R.pdf>.
- BA, 2015. *Weißbuch „Arbeiten 4.0“ – Antworten der BA auf die Herausforderungen der Digitalisierung* [White paper "Work 4.0" – the Federal Employment Agency's answers to the challenges of digitalisation], Bundesagentur für Arbeit (BA) [Federal Employment Agency], Zulieferung BA zum Weißbuch Arbeiten 4.0, Nürnberg.
- Bacaria, Coll, J. and Sánchez-Montijano, E., 2015. *The Labour Market in Spain: Problems, Challenges and Future Trends*, Policy Brief #2015/01, September 2015, Social Inclusion Monitor.eu, Bertelsmann Stiftung, Gütersloh. Available at: https://www.social-inclusion-monitor.eu/uploads/tx_itao_download/EZ_Policy_Brief_SIM_Europe_ENG_2015_03.pdf
- Barnard, C., 2014. "EU Employment law and the European social model: the past, the present and the future", *Current Legal Problems*, 67(August): 199–237.
- Barnes, S.A., Green, A. and de Hoyos, M., 2015. "Crowdsourcing and work: Individual factors and circumstances influencing employability", *New Technology, Work and Employment*, 30(1): 16–31.
- BEIS, 2016. *Employment Practices in the Modern Economy*, Department for Business, Energy and Industrial Strategy. Available at: <https://www.gov.uk/government/groups/employment-practices-in-the-modern-economy>.
- BEISC, 2017. *The Future World of Work and Rights of Workers Inquiry*, Publications, Business, Energy and Industrial Strategy Select Committee, House of Commons, London. Available at: <https://www.parliament.uk/business/committees/committees-a->

[z/commons-select/business-energy-industrial-strategy/inquiries/parliament-2015/the-future-world-of-work-and-rights-of-workers-16-17/publications/](https://www.parliament.uk/commons-select/business-energy-industrial-strategy/inquiries/parliament-2015/the-future-world-of-work-and-rights-of-workers-16-17/publications/).

- Bell, M., 2011. "Achieving the objectives of the part-time work directive? Revisiting the part-time workers regulations", *Industrial Labour Law Journal*, 40(3): 254-278.
- Benner, C. (ed.), 2014. *Crowdwork – zurück in die Zukunft. Perspektiven digitaler Arbeit*, Bund-Verlag.
- Benoit, A., 2017. "French bike couriers unhappy with Emmanuel Macron's vision of the gig-economy", *Independent*, 30 August, 2016. Available at: <http://www.independent.co.uk/news/business/news/france-gig-economy-emmanuel-macron-french-bike-couriers-protests-flexible-labour-rules-a7919736.html>.
- Benson, C., 2017. "Uber, UK Employment law and the gig economy", *2017 Mideyear Meeting of the American Bar Association International Labor and Employment Law Committee*, May 7-11, 2017, The Westbury Hotel Dublin. Available at: https://www.americanbar.org/content/dam/aba/events/labor_law/2017/05/INT/papers/uber_paper_authcheckdam.pdf.
- Berg, J., 2016. *Income Security in the On-Demand Economy: Findings and Policy Lessons from a Survey of Crowdworkers*, Conditions of Work and Employment Series No. 74, Inclusive Labour Markets, Labour Relations and Working Conditions Branch, International Labour Office, Geneva. Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_479693.pdf.
- Bergvall-Kåreborn, B. and Howcroft, D., 2014. "Amazon Mechanical Turk and the commodification of labour", *New Technology, Work and Employment*, 29(3): 213–223.
- Bitkom, 2016. *Crowdworking ist noch die Ausnahme – hat aber Potenzial*, Press Release, 6 December, 2016. Available at: <https://www.bitkom.org/Presse/Presseinformation/Crowdworking-ist-noch-die-Ausnahme-hat-aber-Potenzial.html>.
- Bitkom, 2017. "One in three companies has not yet dealt with the General Data Protection Regulation", Press Release, 19 September, 2017. Available at: https://www.bitkom.org/EN/List-and-detailpages/Press/pressinfo-detailpage-EN_17936.html.
- BMAS, 2015a. *Grünbuch Arbeiten 4.0 - Arbeit Weiter Denken* [Green paper "Work 4.0" Thinking work further], Bundesministerium für Arbeit und Soziales (BMAS) [Federal Ministry of Employment and Social Affairs], Berlin.
- BMAS (eds.), 2015b. *Übertragung der Studie von Frey/Osborne 2013 auf Deutschland* [Application of the study by Frey/Osborne to Germany]; Endbericht Kurzexpose No. 57, Bundesministerium für Arbeit und Soziales (BMAS) [Federal Ministry of Employment and Social Affairs], Berlin.
- Bonoli, G., 2010. "The political economy of active labour-market policy", *Politics and Society*, 38(4): 435– 457.
- Botsman, R., 2013. "The sharing economy lacks a shared definition", *Fast Company*, 21 November, 2013: 1–8. Available at: <https://www.fastcompany.com/3022028/the-sharing-economy-lacks-a-shared-definition>.
- Brawley, A.M. and Pury, C.L.S., 2016. "Work experiences on MTurk: Job satisfaction, turnover, and information sharing", *Computers in Human Behavior*, 54: 531–546.
- Brenke, K. and Beznoska, M., 2016. *Solo-Selbständige in Deutschland. Strukturen und Erwerbsverläufe*, Bundesministerium für Arbeit und Soziales, Forschungsbericht.

- Available at: https://www.bmas.de/SharedDocs/Downloads/DE/PDF-Publikationen/Forschungsberichte/f465-solo-selbstaendige.pdf?__blob=publicationFile&v=4.
- Brinkley, I., 2016. *In Search of the Gig Economy*, Chartered Institute of Personnel and Development, London.
 - Bronstein, A.S., 1991. "Temporary work in Western Europe: Threat or complement to permanent employment", *International Labor Review*, 130: 291.
 - Bsirske, F., 2016. "Gewerkschafterdialog Grundeinkommen", Unpublished paper ver.di, Berlin.
 - Busch, C., Danneman, G., Schulte-Nölke, H., Wiewiórowska-Domagalska, A. and Zoll, F., 2016. "Discussion draft of a Directive on online intermediary platforms", *Journal of European Consumer and Market Law*, 4, 2016(5): 164-169. Available at: https://papers.ssrn.com/sol3/Papers.cfm?abstract_id=2821590.
 - Buhr, D., Frankenberger, A., Fregin, M. and Trämer, M., 2017. *On the Way to Welfare 4.0 – Digitalisation in Germany*, Friedrich-Ebert Stiftung, Berlin.
 - Burson-Marsteller, Aspen Institute and Time, 2016. *Burson-Marsteller on-demand survey*, Burson-Marsteller, Aspen Institute and Time. Available at: <http://www.burson-marsteller.com/ondemand-survey>.
 - Butler, S., 2017. "Deliveroo accused of 'painting a false picture' at work tribunal", *The Guardian*, 27 May, 2017. Available at: <https://www.theguardian.com/business/2017/may/25/deliveroo-accused-painting-false-picture-work-tribunal-self-employment>.
 - Calo, R. and Rosenblat, A., 2017. *The Taking Economy: Uber, Information, and Power*, Columbia Law Review, Vol. 117, 2017; University of Washington School of Law Research Paper No. 2017-08. Available at SSRN: <https://ssrn.com/abstract=2929643> or <http://dx.doi.org/10.2139/ssrn.2929643>.
 - CEPS, 2017. "What is happening with platform workers' rights? Lessons from Belgium", *CEPS Commentaries*, 31 October, 2017, Centre for European Policy Studies, Brussels. Available at: <https://www.ceps.eu/publications/what-happening-platform-workers-rights-lessons-belgium>.
 - Chappellet-Lanier, T., 2016. "Lyft drivers still aren't employees, but what about Uber drivers?", *The Atlantic*, 27 January, 2016. Available at: <https://www.theatlantic.com/business/archive/2016/01/lyft-drivers-uber-sharing-economy-employees/431631/>.
 - Chebil, M., 2016, "French delivery people mull class action lawsuit as foodtech firm goes bust", *France24*, 9 August, 2016. Available at: <http://www.france24.com/en/20160809-french-delivery-people-mull-class-action-lawsuit-foodtech-firm-goes-bust-take-eat-easy>.
 - Chen, L., Mislove, A. and Wilson, C., 2015. "Peeking beneath the hood of Uber", *Proceedings of the 2015 ACM Conference on Internet Measurement Conference*, IMC '15, 2015–October: 495–508.
 - Cherry, M.A., 2016. "Beyond misclassification: the digital transformation of work", *Comparative Labor Law and Policy Journal*, 37: 577.
 - Cherry, M. and Aloisi, A., 2017. "Dependent contractors in the 'gig economy': a comparative approach", *American Law Review*, 66(3): 635-689.

- Chłoń-Domińczak, A., 2017. *Labour Market Policy Thematic Review 2017: An In-Depth Analysis of the Impact of Reforms on Inequality*, European Centre of Expertise (ECE) in the field of labour law, employment and labour market policy Labour, European Commission, Brussels.
- Ciccarelli, R., 2016. "Sharing economy, small digital platforms grow in Italy", *Il Manifesto Global Edition*, 15 November, 2016. Available at: <https://global.ilmanifesto.it/sharing-economy-small-digital-platforms-grow-in-italy/>.
- CIPD, 2017a. *Future World of Work: Submission to the BEIS Committee Inquiry into the Future World of Work*, Chartered Institute of Personnel and Development, London.
- CIPD, 2017b. *To Gig or Not to Gig? Stories from the Modern Economy*, Chartered Institute of Personnel and Development, London.
- Codagnone, C. and Martens, B., 2016. *Scoping the Sharing Economy: Origins, Definitions, Impact and Regulatory Issues*, Institute for Prospective Technological Studies Digital Economy Working Paper 2016/01. JRC100369. European Commission, Brussels.
- Codagnone, C., Biagi, F. and Abadie, F., 2016. *The Future of Work in the "Sharing Economy": Market Efficiency and Equitable Opportunities or Unfair Precarisation?*, Institute for Prospective Technological Studies, JRC Science for Policy Report EUR 27913 EN, doi:10.2791/431485. European Commission, Brussels.
- Colson, T., 2016. "Meet Coople: The 'gig-economy' app that's like Uber for short-term staffing", *Business Insider UK*, 5 November, 2016. Available at: <http://uk.businessinsider.com/coople-the-staffing-app-seeking-to-harness-the-gig-economy-2016-10>.
- Conaty, P., Bird, A. and Ross, P., 2015. *Not Alone: Trade Union and Co-Operative Solutions for Self-Employed Workers*, Co-Operatives UK, Manchester.
- Crowdsourcing Code of Conduct, 2017. *Ground Rules for Paid Crowdsourcing / Crowdworking: Guideline for a Prosperous and Fair Cooperation Between Crowdsourcing Companies and Crowdworkers*. Available at: <http://crowdsourcing-code.de>.
- Däubler, W., 2015. "Crowdworker – Schutz auch außerhalb des Arbeitsrechts?", in Benner, Cc (ed.), *Crowdwork – zurück in die Zukunft?*, Frankfurt am Main.
- Davidov, G., 2014. "Setting labour law's coverage: Between universalism and selectivity", *Oxford Journal of Legal Studies*, 34(3): 543–566.
- Davidov, G., 2017. "The status of Uber drivers: A purposive approach", *Spanish Labour Law and Employment Relations Journal*, forthcoming.
- De Groen, W.P., Maselli, I. and Fabo, B., 2016. *The Digital Market for Local Services: A one-night stand for workers? An example from the on-demand economy*, CEPS Special Report, Centre for European Policy Studies, Brussels.
- De Stefano, V., 2016. *The Rise of the "Just in Time Workforce": On-Demand Work, Crowdwork, and Labour Protection in the "Gig-Economy."*, Conditions of Work and Employment Series No. 71, Inclusive Labour Markets, Labour Relations and Working Conditions Branch, International Labour Office, Geneva.
- Department of Business Innovation and Skills, 2017. *Trade Union Membership, 2016: Statistical Bulletin*, Department of Business Innovation and Skills, London. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/616966/trade-union-membership-statistical-bulletin-2016-rev.pdf.

- DGB, 2016. *Grundlegende Anforderungen an ein Weißbuch „Arbeiten 4.0“* [Basic requirements of a white paper on “Work 4.0”], DGB-Arbeitspapier, January 2016, Deutscher Gewerkschaftsbund, Berlin.
- Dølvik, J.H., 2007. “The Nordic regimes of labour market governance: from crisis to success story?”, Fafo-paper 2007: 07, Copenhagen: Fafo.
- Donovan, S.A., Bradley, D.H. and Shimabukuro, J.O., 2016. *What Does the Gig Economy Mean for Workers?*, Congressional Research Service, Washington DC.
- Drahekoupil, J. and Fabo, B., 2016. *The Platform Economy and the Disruption of the Employment Relationship*, ETUI Policy Brief N° 5/2016, European Trade Union Institute, Brussels.
- Due, J. and Madsen, J.S., 2008, “The Danish Model of Industrial Relations: Erosion or Renewal?”, *Journal of Industrial Relations*, 50(3): 513-529.
- Dullroy, J., 2017 “Deliveroo scraps social security plan for freelancers”, *European Freelancers Week*, 1 November, 2017. Available at: <http://freelancersweek.org/deliveroo-scraps-plan-freelancers/>.
- Economix, 2016. *Arbeitsmarkt 2030. Wirtschaft und Arbeitsmarkt im digitalen Zeitalter. Prognose 2016. Projekt Analyse der zukünftigen Arbeitskräftenachfrage und des –angebots in Deutschland auf Basis eines Rechenmodells. Im Auftrag des BMAS. München 15.7.2016.*
- Edelman, B. and Luca, M., 2014. *Digital Discrimination: The Case of Airbnb.com*, Harvard Business School NOM Unit Working Paper No. 14-054. Available at: <https://ssrn.com/abstract=2377353>.
- Eichhorst, W., Braga, M., Famira-Mühlberger, U., Gerard, M., Horvath, T., Kahanec, M., Kahancová, M., Kendzia, M.J., Martišková, M., Monti, P., Pedersen, J.L., Stanley, J., Vandeweghe, B., Wehner, C. and White, C., 2013. *Social Protection Rights of Economically Dependent Self-employed Workers*, Committee on Employment and Social Affairs, European Parliament, Brussels.
- El País, 2016. “EPA: Evolución del mercado laboral en España”, *El País*, 28 January, 2016.
- ELLN, 2009. *Thematic Report 2009: Characteristics of the Employment Relationship*, European Labour Law Network. Available at: <http://www.labourlawnetwork.eu/frontend/file.php?id=969&dl=1>.
- ETUI, 2015. *Map of European Industrial Relations*, Worker-Participation.eu, European Trade Union Institute, Brussels. Available at: <http://www.worker-participation.eu/National-Industrial-Relations/Map-of-European-Industrial-Relations>.
- ETUI, 2016. *Summary of Labour Market Reforms in Bulgaria*, European Trade Union Institute, Brussels. Available at: <https://www.etui.org/Reforms-Watch/Bulgaria/Labour-market-reforms-in-Bulgaria-background-summary>.
- EURES, 2016. *Labour Market information: Poland*, EURES The European Job Mobility Portal, European Commission. Available at: <https://ec.europa.eu/eures/main.jsp?acro=Imi&lang=en&parentId=0&countryId=PL>.
- Eurofound, 2015a. *New Forms of Employment*, Publications Office of the European Union, Luxembourg. Available at: https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1461en.pdf.

- Eurofound, 2015b. *Recent Developments in Temporary Employment: Employment Growth, Wages and Transitions*, Publications Office of the European Union, Luxembourg. Available at: https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1557en.pdf.
- Eurofound, 2015c. *Bulgaria Working Life Country Profile*, European Observatory of Working Life. Available at <https://www.eurofound.europa.eu/observatories/eurwork/comparative-information/national-contributions/bulgaria/bulgaria-working-life-country-profile>.
- Eurofound, 2017a. *Exploring self-employment in the European Union*, Publications Office of the European Union, Luxembourg. Available at: https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1718en.pdf.
- Eurofound, 2017b. *Germany: Labour Minister launches White Paper on the future of work*, European Observatory of Working Life. Available at: <https://www.eurofound.europa.eu/observatories/eurwork/articles/germany-labour-minister-launches-white-paper-on-the-future-of-work>.
- Eurofound, 2017c. *Spain: Self-employment in the Spanish labour market*, European Observatory of Working Life. Available at: <https://www.eurofound.europa.eu/observatories/eurwork/articles/spain-self-employment-in-the-spanish-labour-market>.
- European Commission. 2016a. *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions: A European agenda for the collaborative economy* Brussels, 2.6.2016 COM (2016) 356 final. Available at: <https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-356-EN-F1-1.PDF>.
- European Commission, 2016b. *Country Report: Poland*, European Commission Working Paper, European Commission, Brussels.
- European Commission, 2017a. *Online Platforms*, Commission Staff Working Document, European Commission, Brussels. Available at: <https://ec.europa.eu/digital-single-market/en/news/commission-staff-working-document-online-platforms>.
- European Commission, 2017b. *Moving Forward on the European Pillar of Social Rights: Commission Continues Work on Fair and Predictable Employment Contracts*, [press release] European Commission, Brussels. Available at: <http://ec.europa.eu/social/main.jsp?langId=en&catId=1313&newsId=2869&furtherNews=yes>.
- European Commission, 2017c. *Second Phase Consultation of Social Partners Under Article 154 TFEU on a Possible Revision of the Written Statement Directive (Directive 91/533/EEC) in the Framework of the European Pillar of Social Rights*, Consultation Document {SWD(2017) 301 final}, European Commission, Brussels. Available at: <http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=2869&furtherNews=yes>.
- European Commission, 2017d. *Second Phase Consultation of Social Partners Under Article 154 TFEU on a Possible Action Addressing the Challenges of Access to Social Protection for People in All Forms of Employment in the Framework of the European Pillar of Social Rights*, Consultation Document, C(2017) 7773 final, 20 November, 2017, European Commission, Brussels. Available at:

<http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=9001&furtherNews=yes>.

- European Commission, 2017e. *Analytical Document Accompanying the Document "Second Phase Consultation of Social Partners Under Article 154 TFEU on a Possible Action Addressing the Challenges of Access to Social Protection for People in All Forms of Employment in the Framework of the European Pillar of Social Rights"* C(2017) 7773 final, 20 November, 2017, European Commission, Brussels. Available at: <http://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=9001&furtherNews=yes>.
- European Parliament, 2017a. *Opinion on A European Agenda for the Collaborative Economy (2017/2003(INI))*, Committee on Employment and Social Affairs, European Parliament, Brussels. Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-592.420+02+DOC+PDF+V0//EN&language=EN>.
- European Parliament, 2017b. *European Agenda for the Collaborative Economy*, European Parliament resolution of 15 June 2017 on a European Agenda for the Collaborative Economy (2017/2003(INI)), European Parliament, Brussels. Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0271+0+DOC+XML+V0//EN>.
- European Union, 2008. Consolidated Version of the Treaty of the European Union, European Union, Brussels. Available at: http://www.en.pollub.pl/files/17/attachment/106_Treaty_on_European_Union.pdf.
- European Union, 2012. Consolidated Version of the Treaty on the Functioning of the European Union, Brussels. Available here: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>.
- Eurostat, 2015. *Employment Statistics: UK*. Available at: [http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Persons_working_part-time_or_with_a_second_job,_2005-2015_\(%25_of_total_employment\)_YB16_III.png](http://ec.europa.eu/eurostat/statistics-explained/index.php/File:Persons_working_part-time_or_with_a_second_job,_2005-2015_(%25_of_total_employment)_YB16_III.png).
- Eurostat, 2016a. *Internet Access and Use Statistics – Households and Individuals*. Available at: http://ec.europa.eu/eurostat/statistics-explained/index.php/Internet_access_and_use_statistics_-_households_and_individuals#Main_tables.
- Eurostat, 2016b. *ICT Specialists in Employment* http://ec.europa.eu/eurostat/statistics-explained/index.php/ICT_specialists_in_employment.
- Eurostat, 2016c. *Europe in Figures*, Eurostat Yearbook, http://ec.europa.eu/eurostat/statistics-explained/index.php/Europe_in_figures_-_Eurostat_yearbook [accessed 03/06/2017].
- Eurostat, 2017a. *Employment and Unemployment Labour Force Survey*, Data Tables. Available at: <http://ec.europa.eu/eurostat/web/lfs/data/main-tables>.
- Eurostat, 2017b. *Taking a Look at the Self-employed in the EU*. Available at: <http://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20170906-1>.
- Eurostat, 2017c. *Employment Statistics: France*. Available at: http://ec.europa.eu/eurostat/statistics-explained/index.php/Unemployment_statistics.
- EWCS, 2015. *European Working Conditions Survey*, Eurofound, Publications Office of the European Union, Luxembourg. Available at:

<https://www.eurofound.europa.eu/surveys/european-working-conditions-surveys/sixth-european-working-conditions-survey-2015>.

- Fahmy, M., Matthes, A., and Scholz, C., 2016. *Diskussion in Fokusgruppen: Alterssicherung (Solo)Selbständiger*, Kurzexpertise Nr 17 im Auftrag des BMAS, unveröffentlicht.
- Fana, M., Guarascio, D., and Cirillo, V., 2015. "Labour market reforms in Italy: Evaluating the effects of the Jobs Act", *LEM Working Paper Series* (No. 2015/31).
- Farrell, D. and Greig, F., 2016a. *Paychecks, Paydays, and the Online Platform Economy: Big Data on Income Volatility*, JPMorgan Chase & Co. Institute. Available at: <https://www.jpmorganchase.com/corporate/institute/document/jpmc-institute-volatility-2-report.pdf>.
- Farrell, D. and Greig, F., 2016b. *The Online Platform Economy: Has Growth Peaked?*, JPMorgan Chase & Co. Institute. Available at: <https://www.jpmorganchase.com/corporate/institute/document/jpmc-institute-online-platform-econ-brief.pdf>.
- Federal Statistics Office, 2016. *Statistical Yearbook 2016*, [Germany]. Available at: <https://www.destatis.de/DE/Publikationen/StatistischesJahrbuch/StatistischesJahrbuch2016.html>.
- Financial Times, 2017. "Uber suffers a setback to its super-flexible model", *Financial Times*, 10 November, 2017. Available at: <https://www.ft.com/content/1628094a-c614-11e7-a1d2-6786f39ef675>.
- Forde, C., 2001. "Temporary arrangements: the activities of employment agencies in the UK", *Work, Employment and Society*, 15(3): 631-644.
- Forde, C. and Slater, G. (2014), "The effects of Agency Workers Regulations on agency and employer practice", *ACAS Research Paper 01/14*, ACAS: London.
- Freedland M. and Kountouris, N., 2011. *The Legal Construction of Personal Work Relations*, OUP, Oxford.
- Freedland, M., 2014. "Regulating for decent work and the legal construction of personal work relations", in McCann, D., Lee, S., Belser, P., Fenwick, C., Howe, J., and Luebker, M. (eds.), *Creative Labour Regulation*, Palgrave Macmillan, Houndmills: 63-83.
- French Property.com, 2017. "What is an auto-entrepreneur?". Available at <https://www.french-property.com/guides/france/working-in-france/micro-entrepreneur-business-france/>.
- Friedman, G., 2014. "Workers without employers: shadow corporations and the rise of the gig economy", *Review of Keynesian Economics*, 2(2): 171–188.
- Fudge, J., 2017. "The future of the standard employment relationship: labour law, new institutional economics and old power resource theory", *Journal of Industrial Relations* [Online]. Available at: <http://dx.doi.org/10.1177/0022185617693877>.
- Fudge, J. and Owens, R., 2006. "Precarious work, women and the new economy: the challenge to legal norms", in Fudge, J. and Owens, R. (eds), *Precarious Work, Women and the New Economy: The Challenge to Legal Norms*, Hart Publishing, Oxford, 3-28.
- Fulton, L., 2015. *Worker Representation in Europe*, Labour Research Department and European Trade Union Institute, London and Brussels.

- Fuster, M., 2014. "Spain: where trade union leaders are criminalised for striking", *Equal Times*, 28 November, 2014. Available at: <https://www.equaltimes.org/spain-where-trade-union-leaders?lang=en#.WS-241AzoUQ>.
- Gierten, D. and Spiezia, V., 2016. *New Forms of Work in the Digital Economy*, 2016 Ministerial Meeting on the Digital Economy, Technical Report, Organisation of Economic Cooperation and Development. Available at: http://www.oecd-ilibrary.org/science-and-technology/new-forms-of-work-in-the-digital-economy_5jlwnklt820x-en.
- Gonos, G., 1997. "The contest over 'employer' status in the postwar United States: The case of temporary help firms", *Law and Society Review*, 31(1): 81-110.
- Goos, M., and Manning, A., 2007. "Lousy and lovely jobs: The rising polarization of work in Britain", *The Review of Economics and Statistics*, 89(1): 118-133.
- Goudin, P., 2016. *The Cost of Non-Europe in the Sharing Economy: Economic, Social and Legal Challenges and Opportunities*, European Parliamentary Research Service, European Parliament, Brussels. Available at: [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/558777/EPRS_STU\(2016\)558777_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/558777/EPRS_STU(2016)558777_EN.pdf).
- Gov.uk, 2017. *Employment Status: Overview*. Available at <https://www.gov.uk/employment-status/overview>.
- Grossman, N. and Woyke, E., 2015. *Serving Workers in the Gig Economy: Emerging Resources for the On-Demand Workforce*, O'Reilly Media, Sebastopol, California. Available at: <http://www.oreilly.com/iot/free/serving-workers-gig-economy.csp>.
- Gumbrell-McCormick, R. and Hyman, R., 2013. *Trade Unions in Western Europe, Hard Times, Hard Choices*, Routledge, London.
- Harris, S.D. and Krueger, A.B., 2015. *A Proposal for Modernizing Labor Laws for Twenty-First-Century Work: The "Independent Worker."* Hamilton Project Discussion Papers, 10 (December), 1–36.
- Hayns, J., 2016. *UberEats Workers on Strike and Hungry for Fair Pay*, NovaraMedia. Available at: http://novaramedia.com/2016/08/27/ubereats-workers-on-strike-and-hungry-for-fair-pay/?utm_content=buffer45841&utm_medium=social&utm_source=facebook.com&utm_campaign=buffer.
- Heyes, J. and Hastings, T., 2017. *The Practices of Enforcement Bodies in Detecting and Preventing Bogus Self-Employment*, European Platform Undeclared Work, European Commission, Brussels. Available at: <http://ec.europa.eu/social/main.jsp?catId=1299&intPageId=4875&langId=en>.
- Hill, S., 2015. "How BIG is the GIG (economy)", *Medium*. Available at: <https://medium.com/the-wtf-economy/how-big-is-the-gig-economy-e674c7986a28#.q8j6v0zbf>.
- Horton, J.J., Stern, L.N. and Zeckhauser, R.J., 2016. *Owning, Using and Renting: Some Simple Economics of the "Sharing Economy"*, BBER Working Paper Series, National Bureau of Economic Research. Available at SSRN: <https://ssrn.com/abstract=2739555>.
- Hunt, A. and Machingura, F., 2016. *A Good Gig? The Rise of On-Demand Domestic Work*, Overseas Development Institute, London. Available at: <https://www.odi.org/sites/odi.org.uk/files/resource-documents/11155.pdf>.
- Huws, U., 2015. *A Review on the Future of Work: Online Labour Exchanges, or "Crowdsourcing": Implications for Occupational Safety and Health*, Discussion Paper,

- European Agency for Safety and Health at Work (EU-OSHA), Bilbao. Available at: <https://osha.europa.eu/en/tools-and-publications/publications/future-work-crowdsourcing/view>.
- Huws, U., 2017. *Written Evidence from Ursula Huws*, Professor of Labour and Globalisation, Hertfordshire Business School, University of Hertfordshire. Available at: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/work-and-pensions-committee/selfemployment-and-the-gig-economy/written/45177.html>.
 - Huws, U., Spencer, N.H., and Joyce, S., 2016. *Crowd Work in Europe: Preliminary results from a Survey in the UK, Sweden, Germany, Austria and the Netherlands*, FEPS and UNI-Europa, Brussels. Available at: <http://www.feps-europe.eu/assets/39aad271-85ff-457c-8b23-b30d82bb808f/crowd-work-in-europe-draft-report-last-versionpdf.pdf>.
 - Huws, U., Spencer, N.H., Syrdal, D.S. and Holts, K., 2017. *Work in the European Gig Economy – Research Results from the UK, Sweden, Germany, Austria, the Netherlands, Switzerland and Italy*, FEPS and UNI-Europa, Brussels. Available at: <http://www.feps-europe.eu/en/publications/details/579>.
 - ILO, 2012. *R202 - Social Protection Floors Recommendation*, 2012 (No. 202), International Labour Organisation, Geneva. Available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R202.
 - ILO, 2013a. *Regulating the employment relationship in Europe: A guide to Recommendation No. 198*, International Labour Organisation, Geneva: ILO. Available at http://www.ilo.org/wcmsp5/groups/public/@ed_dialogue/@dialogue/documents/publication/wcms_209280.pdf.
 - ILO, 2013b. *Decent Work indicators: guidelines for producers and users of statistical and legal framework indicators*, International Labour Organisation, Geneva.
 - ILO, 2016a. *Non-standard employment around the world: Understanding challenges, shaping prospects*, International Labour Office, Geneva.
 - ILO, 2016b. *Social protection*, International Labour Organisation, Geneva. Available at: <http://ilo.org/global/topics/social-security/lang--en/index.htm>.
 - Ilsøe, A., 2017. "The digitalisation of service work – social partner responses in Denmark, Sweden and Germany", *Transfer: European Review of Labour and Research*, 23(3): 333-348.
 - Ingold, J. and Valizade, D., 2015. "A comparative study of employer engagement in active labour market policies in the UK and Denmark: employer survey", *CERIC Policy Report No 6*.
 - Institute of German Economy, 2016. *Qualitative und quantitative Auswirkungen der Sharing Economy in Nordrhein-Westfalen*, Endbericht für Vergabe-Nr., 40/2016.
 - Ipeiritos, P., 2010. *Demographics of Mechanical Turk*. Working Paper CeDER-10-01, (August).
 - Irani, L.C. and Silberman, M.S., 2013. "Turkopticon: Interrupting worker invisibility in Amazon Mechanical Turk", in *Proceedings of the SIGCHI Conference on Human Factors in Computing Systems*. Available at: <https://dl.acm.org/citation.cfm?id=2470654>.
 - Irani, L.C., 2015. "Difference and dependence among digital workers: the case of Amazon Mechanical Turk", *South Atlantic Quarterly*, 114(1): 225-234.

- ISTAT, 2017. *Italian Labour Market Report*, April 2017.
- Kalleberg, A.L. and Dunn, M., 2016. "Good Jobs, Bad Jobs in the Gig Economy", *Perspectives on Work*, ILERA, 10–14.
- Kaminska, I., 2016. "Mythbusting Uber's valuation", FT Alphaville. *Financial Times*, 13 September 2016. Available at: <https://ftalphaville.ft.com/2016/09/13/2173631/mythbusting-ubers-valuation/?mhq5j=e6>.
- Katz, L.F. and Krueger, A.B., 2016. *The Rise and Nature of Alternative Work Arrangements in the United States, 1995-2015*, (No. w22667). National Bureau of Economic Research.
- Kessler, S., 2015. "A look at the Temp Agencies of the Future", *Fast Company*, 16 October, 2016. Available at: <https://www.fastcompany.com/3052030/a-look-at-the-temp-agencies-of-the-future>.
- Kittur, A., Nickerson, J., Bernstein, M., Gerber, E.M., Shaw, A., Zimmerman, J., Lease, M. and Horton, J., 2013. *The Future of Crowd Work*, CSCW '13, *Proceedings of the 2013 Conference on Computer Supported Cooperative Work*, 1–17.
- Klair, A., 2016, "Employment levels are at record highs – so what's the problem", *Touchstone Blog*, TUC, 8 April, 2016. Available at: <http://touchstoneblog.org.uk/2016/04/employment-record-levels-whats-problem/>.
- Klebe, T. and Heuschmid, J., 2017. "Collective regulation of contingent work: from traditional forms of contingent work to crowdwork – a German perspective", in Ales, E., Olaf, D., and Kenner, J., (eds.), *Core and Contingent Work in the European Union*, Bloomsbury Publishing PLC, London.
- Kumpmann, I., 2016. "On Green Paper 'Digital Platforms' of Ministry for Economy and Energy", 30 May, 2016, Released 12.9.2016.
- Kvist, J., 2017. *ESPN Thematic Report on Access to Social Protection of People Working as Self-Employed or on Non-Standard Contracts: Denmark*, European Social Policy Network, European Commission, Brussels.
- La Tribune, 2017. "Un chauffeur VTC (LeCab) requalifié en salarié: quel impact pour le modèle Uber ?", *La Tribune*, 5 January 2017. Available at: <http://www.latribune.fr/entreprises-finance/services/transport-logistique/un-chauffeur-vtc-lecab-requalifie-en-salarie-quel-impact-pour-le-modele-uber-628480.html>.
- Laplante, R. and Silberman, M.S., 2016. Building Trust in Crowd Worker Forums: Worker Ownership, Governance, and Work Outcomes, *Weaving Relations of Trust in Crowd Work: Transparency and Reputation Across Platforms*, workshop co-located with *WebSci '16*, 22–25 May, 2016, Hannover, Germany. Available at: http://trustincrowdwork.west.uni-koblenz.de/sites/trustincrowdwork.west.uni-koblenz.de/files/laplante_trust.pdf.
- Legal Start.fr, 2017. *Auto-Entrepreneur VTC ou Société de VTC?* Available at <https://www.legalstart.fr/fiches-pratiques/chauffeur-vtc-transport/chauffeur-vtc-auto-entrepreneur-ou-societe/>.
- Leighton, P. and Wynn, M., 2011. "Classifying Employment Relationships—More Sliding Doors or a Better Regulatory Framework?", *Industrial Law Journal*, 40(1) 5–44.
- Leinmeister, J. and Shkodran Z., 2013. *Neue Arbeitsorganisation durch Crowdsourcing*, Hans-Boeckler Stiftung, 287.

- Leinmeister, J.M., David D. and Shkodran Z., 2016. *Crowd Worker in Deutschland. Eine empirische Studie zum Arbeitsumfeld auf Externen Crowdsourcing-Plattformen*, Hans-Boeckler Stiftung 323.
- Maciejewska, M. and Mrozowicki, A., 2016. *Poland Country Report For PRECARIR: The Rise of the Dual Labour Market: Fighting Precarious Employment in the New Member States Through Industrial Relations*, Project No. VS/2014/0534. Available at: http://www.socjologia.uni.wroc.pl/attachments/Poland_national-report_PRECARIR_2016_2017-03-02_21-16-46.pdf.
- Manyika, J., Lund, S., Kelsey, R., Jan, M. and Mahajan, D., 2016. *Independent Work: Choice, Necessity, and the Gig Economy*, McKinsey Global Institute. Available at: <https://www.mckinsey.com/global-themes/employment-and-growth/independent-work-choice-necessity-and-the-gig-economy>.
- Martin, C.J. and Swank, D. (2012). *The Political Construction of Business Interests: Coordination, Growth and Equality*, CUP: Cambridge.
- Matsaganis, M., Özdemir, E., Ward, T. and Zvakou, A., 2016. *Non-standard Employment and Access to Social Security Benefits*, Research Note 8/2015, European Commission, Brussels.
- McCann, D. and Lee, S. 2014. "Regulatory indeterminacy and protection in contemporary labour markets: innovation in research and policy", in McCann, D., Lee, S., Belser, P., Fenwick, C., Howe, J., Luebker, M. (eds), *Creative Labour Regulation*, Palgrave Macmillan, Houndmills: 3-28.
- McKay, S., Jefferys, S., Paraksevopoulou, A. and Keles, J., 2013. Study on Precarious Work and Social Rights, Working Lives Research Institute, London. Available at: <http://ec.europa.eu/social/BlobServlet?docId=7925&langId=en>.
- Mikrosensus 2017. *Mikrosensus*, Federal Statistical Office, Berlin. Available at: <https://www.destatis.de/EN/Homepage.html>.
- Ministro de Empleo y Seguridad Social, 2017. Available at: <http://www.empleo.gob.es/index.htm>.
- MISSOC 2017. *Mutual Information System on Social Protection*. Available at: <http://www.missoc.org>.
- Mount, I. 2014. "Spain's underground economy is booming", *Fortune*, 14 February, 2014. Available at: <http://fortune.com/2014/02/14/spains-underground-economy-is-booming/>.
- Myant and Horwitz 2015. "Spain's labour market reforms: No solution to its unemployment problems", *LSE Blog*. Available at: <http://blogs.lse.ac.uk/netuf/2015/06/15/spains-labour-market-reforms-no-solution-to-its-employment-problems/>.
- NESTA, 2014. *Making Sense of the UK Collaborative Economy*, Nesta Collaborative Lab, London. Available at: https://www.nesta.org.uk/sites/default/files/making_sense_of_the_uk_collaborative_economy_14.pdf.
- NESTA, 2015. *Towards an Index of the Collaborative Economy*, Nesta Collaborative Lab, London. Available at: <https://www.nesta.org.uk/publications/towards-index-collaborative-economy>.
- Newcomer, E., 2016. "Uber's Loss Exceeds \$800 Million in Third Quarter on \$1.7 Billion in Net Revenue", *Bloomberg*, 19 December, 2016. Available at:

- <https://www.bloomberg.com/news/articles/2016-12-20/uber-s-loss-exceeds-800-million-in-third-quarter-on-1-7-billion-in-net-revenue>.
- Newman, D., 2017. "How Uber could win in the Employment Appeal Tribunal", *A Range of Reasonable Responses*, 28 September, 2017. Available at: <https://rangeofreasonableresponses.com/2017/09/28/how-uber-could-win-in-the-employment-appeal-tribunal/>.
 - O'Brien, C., Spaventa, E. and De Coninck, J. 2016 Comparative report 2016: The concept of worker under Article 45 TFEU and certain non-standard forms of employment. Brussels: European Commission Directorate-General for Employment, Social Affairs and Inclusion. Available at: <http://ec.europa.eu/social/BlobServlet?docId=15476&langId=en>
 - OECD, 2014. *The 2012 Labour Market Reform in Spain: A Preliminary Assessment*, OECD Publishing, Organisation of Economic Cooperation and Development, Paris. Available at: <http://dx.doi.org/10.1787/9789264213586-en>.
 - OECD 2015. "Youth not in employment, education or training (NEET)", *OECD Data, 2015*, Organisation of Economic Cooperation and Development, Paris. Available at: <https://data.oecd.org/youthinac/youth-not-in-employment-education-or-training-neet.htm>.
 - OECD, 2016. *Skills for a Digital World: 2016 Ministerial Meeting on the Digital Economy Background Report*, OECD Digital Economy Papers, (250), Organisation of Economic Cooperation and Development, Paris. Available at: http://www.oecd-ilibrary.org/science-and-technology/skills-for-a-digital-world_5j1wz83z3wnw-en.
 - OECD, 2017. *OECD Data: Spain*, Organisation for Economic Cooperation and Development, Paris. Available at: <https://data.oecd.org/spain.htm>.
 - Oliver, L. 2017. 'A favourable outcome for drivers in Uber case will not be end of the story', *Yorkshire Post*, 23rd October 2017, available at: <https://www.yorkshirepost.co.uk/news/a-favourable-outcome-for-drivers-in-uber-case-will-not-be-end-of-the-story-1-8819517/>.
 - ONS, 2017. UK Labour Market May 2017, Office for National Statistics. Available at: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/uklabourmarket/latest>.
 - Osborne, H. 2016. "Deliveroo union asks for recognition", *The Guardian*, 8 November 2016. Available at: <https://www.theguardian.com/business/2016/nov/08/deliveroo-union-recognition-iwbg-camden-london-uber>.
 - Pais, I. and Mainieri, M. 2015. "Il fenomeno della sharing economy in Italia e nel mondo", *Equilibri*, 2015(1): 11-20.
 - Petropoulos, G., 2016. *An Economic Review on the Collaborative Economy*, In-Depth Analysis for the European Parliament's Committee on the Internal Market and Consumer Protection, European Parliament, Brussels. Available at: [http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/595358/IPOL_IDA\(2016\)595358_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2016/595358/IPOL_IDA(2016)595358_EN.pdf).
 - PIPAME, 2015. *Enjeux et Perspectives de la Consommation Collaborative. Rapport Final*. Ministère de l'Économie, de l'Industrie, et du Numérique, Pôle Interministériel de Prospective et d'Anticipation des Mutations Économiques (PIPAME), République Française, Paris. Available at: http://www.entreprises.gouv.fr/files/files/directions_services/etudes-et-%20statistiques/prospective/Numerique/2015-07-Consommation-collaborative-Rapport-%20final.pdf.

- Polavieja, J.G. 2003. "Temporary Contracts and Labour Market Segmentation in Spain: An Employment-Rent Approach", *European Sociological Review*, 19(5): 501-517.
- Prassl, J. and Risak, M., 2016. "Uber, Taskrabbit, & Co: Platforms as Employers? Rethinking the Legal Analysis of Crowdwork", *Comparative Labor Law & Policy Journal*, Forthcoming Oxford Legal Studies Research Paper No. 8/2016. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2733003.
- Prassl, J., 2015. *The Concept of the Employer*, OUP, Oxford.
- PWC, 2016. *Assessing the Size and Presence of the Collaborative Economy in Europe*, PricewaterhouseCoopers, London.
- Reed, M., 2017. "Can contract law handle the gig economy?", *Practical Law Employment Blog*, 18 May, 2017. Available from: <http://employmentblog.practicallaw.com/can-contract-law-handle-the-gig-economy/>.
- Republic of Bulgaria National Statistics Institute, 2017. *Labour Force Survey Results*, Quarter 1, 2017: 1. Available at: http://www.nsi.bg/sites/default/files/files/pressreleases/LFS2017q1_en_FHJQWQC.pdf
- Research group on the Law of Digital Services, 2016. "Discussion Draft of a Directive on Online Intermediary Platforms", *EuCML*, 5(4): 164-169.
- Risak, M. and Warter, J., 2015. Decent Crowdwork: "Legal Strategies towards fair employment conditions in the virtual sweatshop", paper to be presented at *Regulating for Decent Work 2015 Conference*, Geneva, 8–10 July 2015. Available at: http://www.rdw2015.org/uploads/submission/full_paper/373/crowdwork_law_RisakWarter.pdf.
- Rodríguez Cabrero, G., Arriba, A., Marbán, V., Montserrat, J. and Moreno-Fuentes, F.J., 2017. "Thematic Report on Access to social protection of people working as selfemployed or on non-standard contracts. Spain", European Commission: ESPN.
- Romei, V., 2017. "Italy on the mend but strong recovery still far away", *Financial Times*, 26 May, 2017. Available at: <https://www.ft.com/content/68cd2d4e-4084-11e7-82b6-896b95f30f58?mhq5j=e6>.
- Rosenblat, A., Levy, K.E.C., Barocas, S. and Hwang, T., 2017. "Discriminating tastes: Uber's customer ratings as vehicles for bias", *Policy and Internet*, (October): 1-24. 10.1002/poi3.153. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2858946.
- Schiek, D., Oliver, L., Forde, C., Alberti, G., Doherty, M., Unterschutz, J., Chacartegui Javega, C., Lopez Lopez, J., Ahlberg, K. and Bruun, N., 2015. *EU Social and Labour Rights and EU Internal Market Law*, Study for Committee on Employment and Social Affairs, European Parliament, Brussels. Available at: http://www.europarl.europa.eu/RegData/etudes/STUD/2015/563457/IPOL_STU%282015%29563457_EN.pdf.
- Schmidt, F., 2017. *Arbeitsmärkte in der Plattformökonomie – Zur Fundktionsweise und den Herausforderungen von Crowdwork und Gigwork*, Friedrich-Ebbert Stiftung.
- Schneider, N., 2015. "Intellectual Piecework", *The Chronicle of Higher Education*. 16 February, 2015. Available at: <http://www.chronicle.com/article/Intellectual-Piecework/190039>.
- Scholz, T., 2016. *Platform Cooperativism: Challenging the Corporate Sharing Economy*, Rosa Luxemburg Stiftung, New York.

- Schörpf, P., Flecker, J., Schönauer, A., 2017. "On call for one's reputation – control and time in creative crowdwork", in Briken, K., Chillias, S., Krzywdzinski, M. and Marks, A. (eds.), *The New Digital Workplace: How New Technologies Revolutionise Work*, Palgrave Macmillan, London: 89–111.
- Schulze Buschoff, K., 2016. *Solo-Selbständigkeit in Deutschland: Aktuelle Reformoptionen*, WSI Policy Paper Brief 4.
- Shead, S., 2016. "The Deliveroo strike is over as the company abandons plans to force couriers into signing new contracts", *Business Insider UK*, 17 August, 2016. Available at: <http://uk.businessinsider.com/the-deliveroo-strike-is-over-as-the-company-abandons-plans-to-force-couriers-into-signing-new-contracts-2016-8>.
- Silberman M.S., 2017. "Fifteen criteria for a fairer gig economy", in Graham, M. and Shaw, J. (eds.), *Towards a Fairer Gig Economy*, Meatspace Press.
- Sinistra Italia, 2017. *Il Nuovo Statuto del Lavoro Autonomo: La Posizione di Sinistra Italiana*. Available at: <http://www.sinistraitaliana.si/notizia/statuto-del-lavoro-autonomo-la-posizione-sinistra-italiana/>.
- Smith, A., 2016. *Shared, Collaborative and On Demand: The New Digital Economy*, Pew Research Center. Available at: <http://www.pewinternet.org/2016/05/19/the-new-digital-economy/>.
- SOEP, 2017. *The German Socio-Economic Panel*, German Institute for Economic Research, DIW Berlin. Available at: <https://www.diw.de/en/soep>.
- Sokołowski, D., Starzyński, S. Bolesław, R. and Zgiep, L., 2016. *The Collaborative Economy in Poland*.
- Spasova, S., Bouget, D., Ghailani, D., and Vanhercke, B., 2017. *Access to Social Protection for People Working on Non-Standard Contracts and as Self-Employed in Europe: A Study of National Policies*, ESPN Synthesis Report, European Social Policy Network (ESPN), European Commission, Brussels. Available at: <http://ec.europa.eu/social/main.jsp?langId=en&catId=1135&newsId=2798&furtherNews=yes>.
- Srnicek, N., 2017. *Platform Capitalism*, Polity, Cambridge.
- StartBusinessinFrance.com, 2017. *Summary of Changes to the Auto-Entrepreneur Business in 2017*. Available at <http://www.startbusinessinfrance.com/blog/post/summary-of-changes-to-the-auto-entrepreneur-business-in-2017>.
- Statcan, 2017. "The sharing economy in Canada", Statistics Canada. Available here: <http://www.statcan.gc.ca/daily-quotidien/170228/dq170228b-eng.htm>.
- Staufenberg, J., 2016. "Deliveroo courier strike: Employers cannot 'simply opt out of the National Living Wage', says Government", *Independent*, 13 August, 2016. Available at: <http://www.independent.co.uk/news/business/news/deliveroo-courier-strike-employers-national-living-wage-government-department-for-business-a7189126.html>.
- Sundararajan, A., 2016. "The Sharing Economy: The End of Employment and the Rise of Crowd-Based Capitalism", MIT Press, Cambridge, MA.
- Sundararajan, A., 2017. *The Collaborative Economy: Socioeconomic, Regulatory and Policy Issues*, European Parliament Directorate General for Internal Policies Policy, Department A: Economic and Scientific Policy, IP/A/IMCO/2016-12, Brussels.

- Taylor, M., 2017. *Good Work: The Taylor Review of Modern Working Practices*, Department for Business, Energy and Industrial Strategy, London. Available at: <https://www.gov.uk/government/publications/good-work-the-taylor-review-of-modern-working-practices>.
- Taylor Wessing, 2017. "Expert commentary: Pimlico Plumbers is as significant as the Uber case", Taylor Wessing, 10 February, 2017. Available at: <https://united-kingdom.taylorwessing.com/en/expert-commentary-pimlico-plumbers-is-as-significant-as-the-uber-case>.
- Terrasse, P., Barbezieux, P., and Herody, C., 2016. *Rapport au Premier Ministre sur l'Économie Collaborative*, Premier Ministre, Paris. Available at: <http://www.ladocumentationfrancaise.fr/rapports-publics/164000100/index.shtml>.
- Thelen, K., 2014. *Varieties of Liberalization and the New Politics of Social Solidarity*, CUP: Cambridge.
- Tomlinson, D. and Corlett, A., 2017. *A Tough Gig? The Nature of Self-Employment in 21st Century Britain and Policy Implications*, Resolution Foundation, London. Available at: <http://www.resolutionfoundation.org/publications/a-tough-gig-the-nature-of-self-employment-in-21st-century-britain-and-policy-implications/>.
- Traxler, F., 2010. "The long-term development of organised business and its implications for corporatism: A cross-national comparison of membership, activities and governing capacities of business interest associations 1980-2003", *European Journal of Political Research*, 49: 151-173.
- UKCES, 2016. *Working Futures 2014-2024*, UK Commission for Employment and Skills, Evidence Report 100, April 2016. Available at: http://dera.ioe.ac.uk/26069/1/Working_Futures_final_evidence_report.pdf.
- Vega Paul, M., 2016. "Uber returns to Spanish streets in search of regulatory u-turn", *Reuters Technology News*, 30 March, 2016. Available at: <https://www.reuters.com/article/us-spain-uber-tech/uber-returns-to-spanish-streets-in-search-of-regulatory-u-turn-idUSKCNOWW0AO>.
- Vitaud, L., 2015. *The Gig Economy in Spain: From the Shadow to the Light*, with the Switch Collective, Medium, 10 December, 2015. Available at: <https://medium.com/switch-collective/the-gig-economy-in-spain-from-the-shadow-to-the-light-829e9d9a48cd>.
- VTC News, 2017. "Hinter, la filiale très rentable et illégale d'Uber", *Mediapart*, 11 October, 2017. Available at: <http://www.vtc-news.fr/2017/01/17/hinter-filiale-tres-rentable-illegale-duber/>.
- Webster, J., 2016. *Microworkers of the Gig Economy: Separate and Precarious*, New Labor Forum, 25(3): 57–64.
- Weil, D., 2014. "Fissured employment: Implications for achieving decent work", in McCann, D., Lee, S., Belser, P., Fenwick, C., Howe, J., and Luebker, M. (eds.), *Creative Labour Regulation*, Palgrave Macmillan, Houndmills: 35-62.
- Wood, A., Graham, M. and Lehdonvirta, V., 2017. "Good gig, bad gig: job quality in the global platform economy", in *International Labour Process Conference 2017*, Sheffield.
- Worker Participation.eu, 2016. *National industrial Relations Systems Across Europe*. Available at: <https://www.worker-participation.eu/National-Industrial-Relations/Across-Europe/Collective-Bargaining>.

- World Bank, 2016. *Self-Employment: France*. Available at: <http://data.worldbank.org/indicator/SL.EMP.SELF.ZS?locations=FR>.
- World Bank, 2017. *Social Protection and Labor Overview*. Available at: <http://www.worldbank.org/en/topic/socialprotection/overview>.
- WPC, 2017. "Self-employment and the gig economy", *Thirteenth Report of Session 2016–17*, Work and Pensions Committee, House of Commons, London. Available at: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/inquiries/parliament-2015/self-employment-gig-economy-16-17/>.
- Zahariev, B., 2017. *Access to Social Protection of People Working as Self-Employed or on Non-Standard Contracts, ESPN Thematic Report on Bulgaria*, European Social Policy Network, European Commission, Brussels.
- Zaleski, O., 2017. "Airbnb closes \$1 billion funding round with war chest for growth", *Bloomberg*, 9 March, 2017. Available at: <https://www.bloomberg.com/news/articles/2017-03-09/airbnb-closes-1-billion-funding-round-with-war-chest-for-growth>.
- Zumbun, J., 2015. "An enduring mystery of the "Gig Economy": why are so few people self-employed?", *Wall Street Journal*, 22 October, 2015.
- Zumbun, J. and Sussman, L., 2015. "Proof of a 'Gig Economy' revolution is hard to find", *Wall Street Journal*, 26 July, 2015.

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