



European Network of Public Employment Services

Contribution to the topic
'New forms of work – platform work'
2020
OPINION PAPER



This paper was prepared by the PES Working Group on New Forms of Work, and adopted by the PES Network Board on 30 June 2020. The project is further documented in 'Platform work - background paper'. The Working Group is chaired by Austria, and includes participants from Bulgaria, Germany, France, Croatia, Italy, Norway, Slovenia and Sweden.

Edited with the support of



EUROPEAN COMMISSION

Directorate-General for Employment, Social Affairs and Inclusion
Directorate B – Employment
Unit B1 – Employment Strategy

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The European Network of Public Employment Services was created following a Decision of the European Parliament and Council in June 2014¹. Its objective is to reinforce PES capacity, effectiveness and efficiency. This activity has been developed within the work programme of the European PES Network. For further information: <http://ec.europa.eu/social/PESNetwork>.

This activity has received financial support from the European Union Programme for Employment and Social Innovation "EaSI" (2014-2020). For further information please consult: <http://ec.europa.eu/social/easi>.

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¹ DECISION No 573/2014/EU

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Preface

An increasingly digital and globalised world has affected traditional employment relationships. Though still relatively small as a proportion of all employment, the incidence of platform work is growing and a reality for many European citizens. This new form of work is challenging traditional work patterns in many ways and the European Commission has urged Member States and their institutions to search for strategies to benefit from its opportunities and to cope with its challenges.

In its 2016 communication, the European Commission highlights the growing importance, as well as the potential of the collaborative economy to contribute to jobs and growth, provided that it develops in a *'reasonable way'*. At the same time, the European Commission highlights persistent challenges and uncertainties with the application of legal frameworks and existing *'blurring established lines between consumer and provider, employee and self-employed, or the professional and non-professional provision of services.'*² Furthermore, in its 2020 work programme the European Commission has announced its intention to propose *'ways to improve the labour conditions for platform workers'*.³

Platform work takes different forms meaning that there is still no precise definition of what is understood by the concept. Eurofound describes platform work as an *'employment form in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services in exchange for payment'*.⁴ Furthermore, there are, certain criteria that help provide a better understanding and framing of platform work, as follows:

- Platform work is provided and organised through online platforms
- The platform acts as intermediary between a client and a platform worker
- As regards the *'mode of delivery of services'* four ways of delivery can be distinguished⁵:
 - o physical delivery of service to individual customer;
 - o online service delivery to individual customer;
 - o physical delivery of service to collective customers;
 - o online service delivery to collective customers.

The share of European citizens who have ever used platforms to find a job is still relatively small, but growing steadily. Recent figures suggest that around 11 % of the adult population have performed platform work at least once. However, only around 1.4 % of adults dedicate more than 20 hours per week to platform work and gain at least 50 % of their income from it⁶. These figures underline the relatively small current scale of platform work, though the latest COVID-19 crisis and related lockdown and confinement measures suggest that there has been an increased demand for services (e.g. delivery services) but also further scope for more platform work.

New forms of work involve both new opportunities as well as new challenges. Research suggests that a higher degree of flexibility, the opportunity to earn extra money, better access to multiple clients at global level and difficulties in finding a job, are the main

² <https://ec.europa.eu/docsroom/documents/16881/attachments/2/translations/en/renditions/pdf>

³ https://eur-lex.europa.eu/resource.html?uri=cellar%3A7ae642ea-4340-11ea-b81b-01aa75ed71a1.0002.02/DOC_1&format=PDF

⁴ <https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/platform-work>

⁵ https://ec.europa.eu/knowledge4policy/foresight/topic/changing-nature-work/platformisation-of-work_en

⁶ European Commission, Study to gather evidence on the working conditions of platform workers (2019). <https://ec.europa.eu/social/BlobServlet?docId=22450&langId=en>

reasons for workers choosing platform work⁷. Platforms can also provide job opportunities for disadvantaged people and so can support labour market participation and play a valuable role in their activation.

On the other hand, there are some risks involved in platform working that require specific attention. Firstly, platform workers can face uncertainty with their employment situation as covered by the legal framework under which such work is performed. This includes aspects such as the nature and provisions of employment contracts and access to social protection systems.

At European level, the European Commission and the European Parliament have both dealt with the topic at various junctures. Similarly, the European Social Partners have issued proposals to address the challenges platform workers can face. The constant increase of platform work suggests that Public Employment Services (PES) will be increasingly dealing with the issues posed by platform working. This includes the likelihood of service provision to platform workers, including payment of benefits and provision of active labour market measures (ALMP) as well as relations with the platform operators as emerging important players in the labour market. The PES Network is encouraging discussions about how to promote decent working conditions, fair competition and access to social security for platform workers. Social dialogue will be a key element in this and an effective driver towards an updated, transparent and fair legal basis for platform work.

The European Network of Public Employment Services (PES Network) acknowledges the need for further action and aims at contributing to the ongoing discussion on platform work through this opinion paper.

The Role of Public Employment Services with regard to platform work

1. Emerging new labour market actors - the digital labour platforms

Digital labour platforms act as intermediaries between platform workers and clients, thus providing services such as matching for the requirement of their customers. Such platforms are reliant on digital technology (essentially the use of algorithms) and often similar technology that PES are also increasingly implementing. Such approaches come with several risks and uncertainties, especially so given the relative newness and diversity (e.g. web-based platforms and location based applications) of the technology and its application. However, as technology advances quickly, these systems are constantly improving in quality and accuracy to increase effectiveness and efficiency. In this scenario, transparency aspects of the way platform working operates needs to be monitored closely to avoid instances where the technology assumes control over the platform workers' account, leading to possible deactivation and suspension of income flows.

However, the ongoing development and application of technology has much potential for the mutual benefit of all parties. PES, for example, are striving for better digital systems for their customers and this could mean that digital platform technology might also benefit PES and their customers in the future. But while PES as public institutions are subject to national and European legal provisions, digital platforms, often operating transnationally, can face less stringent regulation which can lead to a lack of transparency to the possible detriment of the working conditions of platform workers.

The PES Network therefore suggests the development of (legal) national and European frameworks within which digital platforms can operate. Such

⁷ B. Balam, J. Warden, F. Wallace-Stephens. Good Gigs. A fairer future for the UK's gig economy (2017). https://www.thersa.org/globalassets/pdfs/reports/rsa_good-gigs-fairer-gig-economy-report.pdf

frameworks should include business regulations as well as regulations on the matching systems. These should address the transparency of the service definition and price/remuneration, contestation and neutrality of algorithms used to avoid risks of discrimination. It is equally important that workers are able to control of and have continuity in their own online reputational data.

2. On employment contract related aspects

In many cases platform workers do not have the security of regular employment contracts. Therefore, their employment status can be vague since frequently the platform's terms and conditions determine the status of the worker. Most countries primarily differentiate between dependent employment (employees) and self-employment. Even though additional sub-categories of these two statuses exist, uncertainty prevails under which status platform workers fall and recent legal cases have shown that there is still confusion. Moreover, platform workers often work for different platforms and may therefore be subject to different statuses. This uncertainty about employment status also impedes trade union activities on behalf of platform workers.

All this is crucial since the employment status of workers significantly affects the way PES are able to provide services to their customers. This includes services such as matching and counselling since the occupational situations are unclear, and aspects of conditionality related to job search and outreach to platform workers. For example, PES are confronted with questions such as to what extent benefit recipients will be required to accept platform work. This lack of clarity in employment status also affects the eligibility to various ALMP measures. Employment subsidies, for example, may not be granted in cases where there is an absence of an employment contract. This is an important issue since platform work may provide an ideal employment opportunity for some hard-to-place categories of unemployed. Therefore, it is evident that further clarification on the employment status of platform workers is urgently required to create legal certainty for platform workers, which is also a prerequisite for PES to ensure service provision for them.

The PES Network therefore supports any initiative aimed at defining the employment status of platform workers and clarification of their occupation.

3. On the social security aspects of platform workers

Given the unclear employment status of platform workers, access to social insurance systems could be limited as a result. There are currently only a few examples of Member States where self-employed are covered by social security schemes. In many cases the self-employed are excluded or only partly covered by such systems and where this is the case, typically at their own expenses. This poses a serious risk to both the individual and the European welfare state model. With regard to the PES, this particularly concerns the unemployment benefits system.

With a greater number of platform workers, the risk is that more people may be excluded from the unemployment benefit schemes which tend to currently favour those in traditional forms of employment. Consequently, unemployment benefit schemes will face challenges and risk losing their effectiveness in serving the whole employed population. Furthermore, there is the possibility of decreasing social insurance contributions that may pose a serious threat to the sustainability of existing welfare systems.

The PES Network therefore calls upon the decision makers to intensify discussions on the challenges and risks for the European welfare state in this respect.

4. On collecting and exchanging of information on platform work

As platform work is a relatively recent phenomenon, information and analyses are still limited. Recent research findings have revealed growing interest in platform work, though it is still at a relatively low level in most countries. Nonetheless, given its potential to increase rapidly, it is appropriate to intensify the monitoring of trends and developments on both the platform economy itself and the responses and regulations at national levels. This would also serve as a good basis for PES capacity building on this issue given their need to become more familiar with the trends to be in a strong position to provide support to their customers. To this end, the European Parliament has proposed '*disclosure obligations for platform operators in order to monitor tax payments, social security contributions and practices regarding the rating of work on platforms and ensure that all relevant information is available to national authorities*'⁸. Such monitoring would increase in transparency and should ideally be conducted at European level to achieve the widest understanding possible.

The PES Network supports initiatives to establish a monitoring framework for future developments of the platform economy and is willing to provide its expertise.

5. On the skills development requirement of platform workers

In recent years, several initiatives at national as well as at European level have been launched to address existing skills gaps at the labour market. These included analyses on relevant skills requested by employers and forecasts on future needs as well as implementing measures for upskilling existing workers. As a result, certain patterns and pathways have been developed in cooperation with institutions involved with upskilling provision (such as PES) and employers, though the development of the skills of platform workers may not fit into these current systems. A particular problem for the self-employed (including platform workers) is that they cannot rely on an employer to train them and in most cases do not have access to ALMPs through PES. This tends to mean that it is primarily the responsibility of the platform worker to organise their own training and upskilling.

Digital platform therefore should play a more active role in developing the skills of platform workers providing an opportunity for skills development. Furthermore, innovative training opportunities, especially for the 'low-skilled' workers, should be developed and provided.

Since platforms and the skills required or obtained are not always transparent, PES matching systems face difficulties coping with such skills which can lead to skills mismatches or unfair conditions. A common language/framework for occupations and skills would be beneficial, underlining the need of strengthening the use of tools such as ESCO and Europass.

The PES Network highlights the importance of upskilling activities to meet current and future labour market needs. It therefore calls on decision makers to consider the inclusion of platform workers and unemployed persons interested in platform work into existing training schemes and the development of new ones targeting the self-employed.

⁸ https://www.europarl.europa.eu/doceo/document/A-8-2017-0195_EN.html