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Platform work

The link with social security systems

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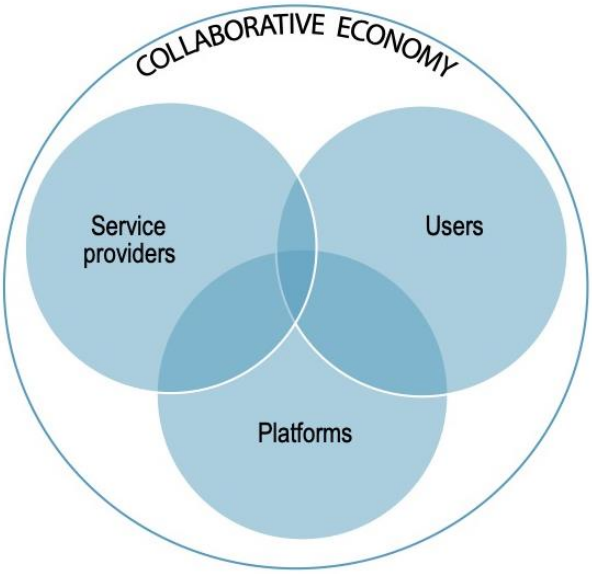
1. General aspects

1.1. The collaborative economy: definition and scope

In June 2016, the European Commission issued a communication to the other European institutions in which it defined the term "collaborative economy" as "business models where activities are facilitated by collaborative platforms that create an open marketplace for the temporary usage of goods or services often provided by private individuals".

In addition to the nomenclature, the report cited the collaborative economy's three main stakeholders as:

- Service providers who share assets, resources, time and/or skills, be they private individuals offering services on an occasional basis (peers) or service providers acting in a professional capacity (professional service providers).
- Users of these services.
- Intermediaries that, by way of an online platform, connect providers with users and facilitate transactions between them ("collaborative platforms").



The same communication noted that gross revenue in the European Union (EU) from collaborative platforms and providers was estimated at some 28 billion euros (EUR) in 2015. It also forecast significant economic growth going forward – an estimated increase of between EUR 160 and 572 billion. v

Other organizations, both public and private sector, have echoed this phenomenon, producing a range of studies and explanatory documents along similar lines to the European Commission. They believe the collaborative economy, also known as the "sharing economy", provides new opportunities for consumers and entrepreneurs alike and that it will experience significant macroeconomic growth over the coming years.

The collaborative economy is based on the social practices of sharing, collaboration and cooperation and it has commercial, legal and institutional implications.

Its rapid and ever-burgeoning development has been supported and strengthened by three key innovations:

- The intensive use of technology, principally as a result of:
  - the internet and growing access to high-speed networks;
  - the emergence of smartphones and mobile applications;
  - computing and data processing.
- The appearance of new business models capable of generating profit from the interaction between different groups: multilateral markets.
- Collaborative platforms: a key driver for the development of this new economic model.

The combination of these factors and the need for answers in the face of an economic crisis have led to the configuration of a new business model based on collaborative platforms which facilitate the relationships between customers and service providers to mutual benefit.

Ultimately, the use of information and communications technology to foster links between different groups of people is the cornerstone of the collaborative economy.

Large companies have emerged in this new business area – companies that, through the intensive use of innovative internet and communications technology, use platforms to quickly and efficiently match up supply with demand. These companies were first seen in the fields of transport and holiday rentals, but soon began to appear in other industries, such as financial services and healthcare.

The establishment of the first big platforms to make intensive use of the new internet and mobile phone technology dates back to 2008 and 2009. Two such examples are Uber and Airbnb, which were founded in San Francisco (USA) but rapidly expanded around the world.

In Europe, we can cite the example of BlaBlaCar, which was set up in France in 2009.

This economic business model has come to be known as the "platform economy" or "gig economy". There are no concrete figures to determine its precise scale in today's global economy, mainly owing to its recent emergence, its rapid growth and its continual evolution.

Its current geographical centre of operations can be said to be Asia and the United States, as well as the EU, although to a lesser degree.

2. Digital platforms

The rate of expansion of digital – or online – platforms and their intermediary model has raised a number of economic and social concerns that have in turn led to calls on public bodies to regulate their activities.

This state of uncertainty is motivated, on the one hand, by the economic impact of platform activities over recent years and, on the other, by the very nature of these platforms and their effects on those directly involved in the business model as well as those touched by it.

From an economic perspective, platforms are difficult to define. Given how they operate, they can be considered companies, in the sense that they aim to make a profit from their activities, but also as a market in their own right since they help to match up supply with demand and foster increased economic activity through the mobilization of key resources.

The digital platform phenomenon is nothing new, however. When taken as companies that facilitate the management of multilateral markets, these existed even prior to the emergence of the collaborative economy.

The use of the internet and the development of new mobile phone applications have enabled such platforms' advance towards a global market in which large numbers of providers and

customers interact efficiently and with minimal transaction costs. This is essentially what is known as the "network effect".

The use of these applications and the ability to track users via mobile phone geolocation enables demand to be satisfied in virtually real time and helps providers to offer the best possible solutions.

The latest step taken by platforms to support the real-time interface between supply and demand is the analysis of large numbers of customer–provider transactions with a view to generating user consumption profiles and predicting user requirements.

The resulting market effects are a reduction in the cost of services or accommodation rentals for consumers; the potential of increased revenue for providers thanks to the low transaction costs; and the establishment of a new economic climate driven by intermediary platforms.

Such developments can also have negative consequences as they can shift demand towards new players, thereby forcing traditional operators out of the market and placing the platform in a dominant position in its economic sector.

From a legal standpoint, drawing up a definition of this new business model poses a number of problems since, when it comes to service delivery, it can take various forms.

Within the EU, the European Commission, in documentation produced under the heading *Online platforms*, defines a platform as "an undertaking operating in two (or multi)-sided markets, which uses the internet to enable interactions between two or more distinct but interdependent groups of users so as to generate value for at least one of the groups".

As far as the legal status of platforms is concerned, the following distinction is made:

- The simplest platform models, which provide an interface between supply and demand purely through the publication of information on the platform, are classified as "information society services". Directive 2015/1535/EU defines an information society service as "any service normally provided for remuneration, at a distance, by electronic means and at the individual request of a recipient of services".
- More advanced platforms, based on an intermediary model that facilitates the sale and procurement of goods and services, are regulated as "mediation contracts", a legal status that involves the provision of an intermediary service in exchange for a commission. This definition explicitly excludes the possibility of a platform owning the service that is provided to users.

As an adjunct to this definition, it should be noted that there is no legal impediment to a platform taking ownership of the legal relationship with the end user and taking direct responsibility for service delivery.

The above classification, which may be used directly by or serve as a reference for other countries in which digital platforms operate, advises that regulation takes place from three different perspectives:

- Regulation of the platform's own activity. The platform must create an operational environment that guarantees the security and efficacy of its activities.
- Regulation with a view to user protection.
- Regulation of the relationship between service providers and the platform.

The last of these three aspects, concerning the relationship between service providers and the platform, will be the main focus of this report owing to its direct impact on social security systems.

3. Social security systems and digital platforms

In the Statutes of the International Social Security Association (ISSA), social security is defined as "any programme of social protection established by legislation, or any other mandatory arrangement, that provides individuals with a degree of income security when faced with the contingencies of old age, survivorship, incapacity, disability, unemployment or rearing children. It may also offer access to curative or preventive medical care".

The innovative nature of the platform economy has generated a wide variety of relationships between the individuals and organizations operating within this new business model. For the purposes of this document, the relationships involving the personal delivery of services – in other words, those of the individuals working via digital platforms – are of particular interest.

3.1. Types of digital platforms according to service provided

Despite the publication of numerous studies on the typology of digital platforms, there is no general consensus on their classification as the concept itself remains very new and is in constant flux.

The primary complication lies in the diversity of economic activities and in the ways in which the work is carried out.

Institutions such as Eurofound, the ILO and the OECD concur in differentiating between platforms according to how the work is carried out:

- "On-location": Those in which the work is necessarily undertaken in person and in the place in which the service is needed.
- "Online"; or "web-based" to use the ILO's terminology. Those in which work is assigned and delivered by way of an internet connection.

More comprehensively, Eurofound sets out five key characteristics by which digital platforms – and the interactions between them and their users and service providers – can be classified.

Three of these (the level of skill required, the format of service provision and the scale of the tasks) classify the service being delivered and the other two (the job selection process and the form of matching) classify the platform itself.

Figure 1. *Classification of platforms according to Eurofound*

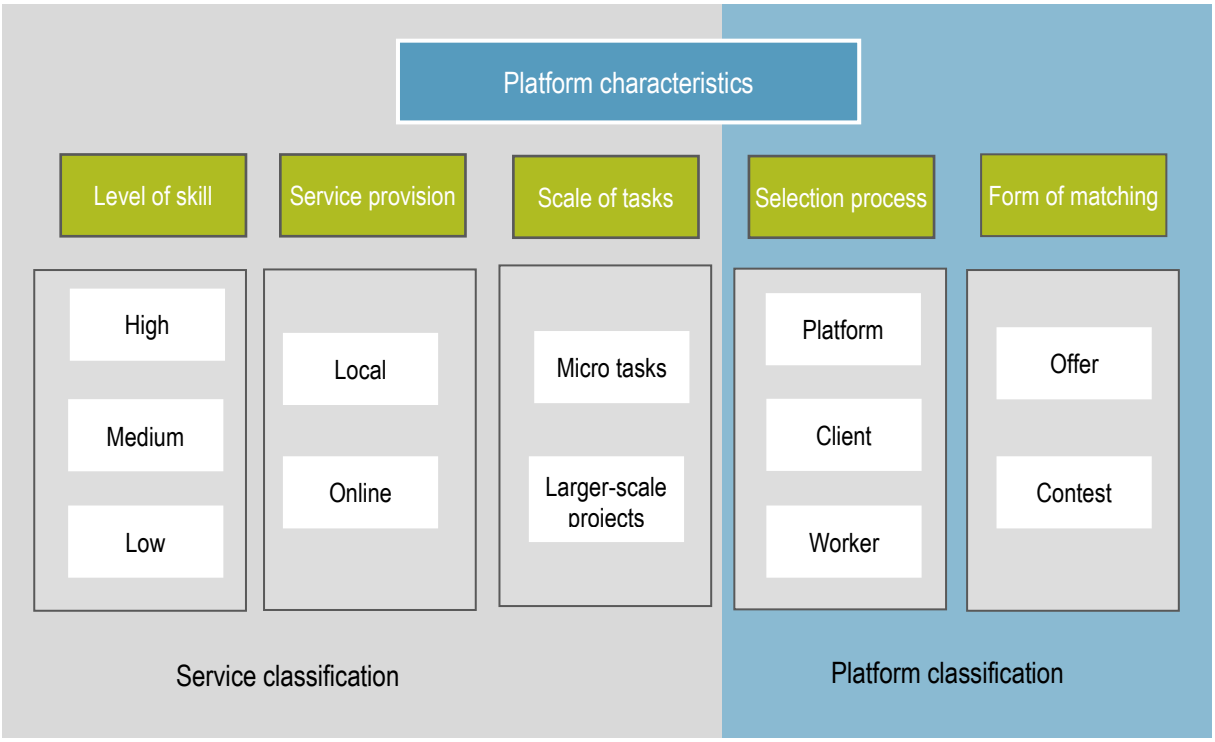
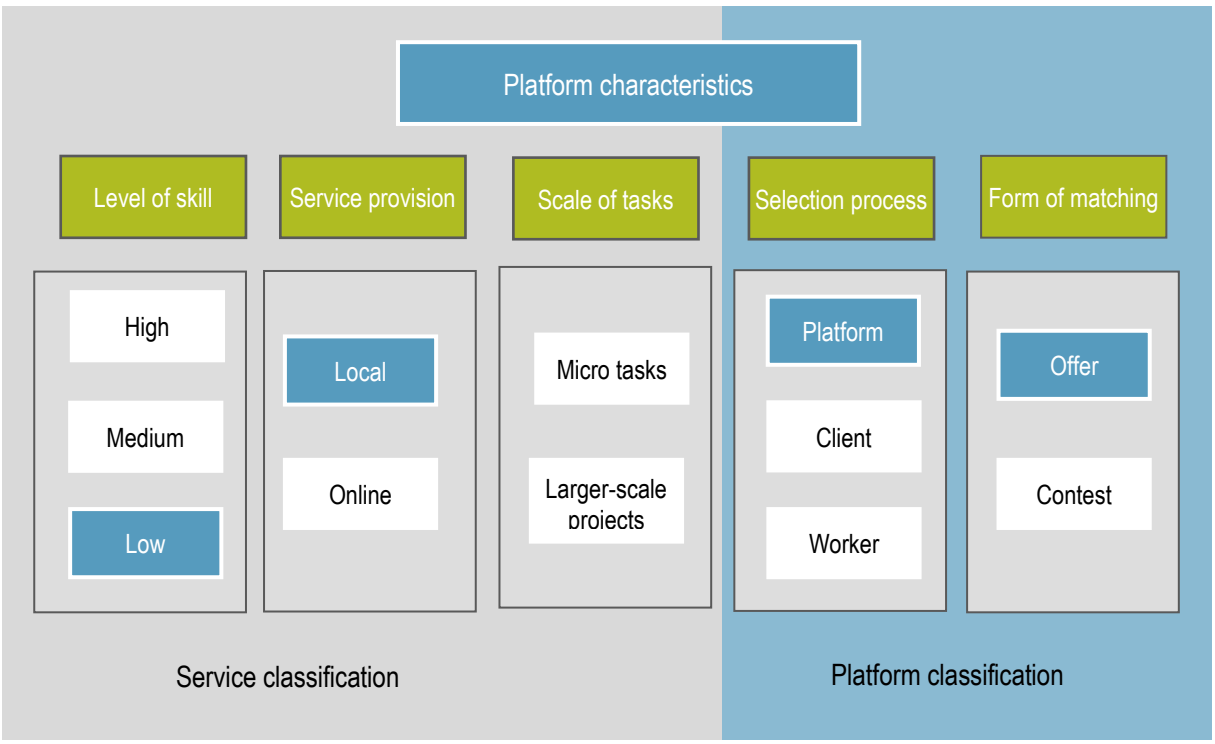


Figure 2. *Example: the UBER platform*



3.2. The platform worker

There is no global data on the number of workers associated with digital platforms, although preliminary baseline data is coming out of a number of smaller-scale studies and surveys.

One such survey, the *COLLEEM Survey* published by the European Commission in 2018, provides data on the percentage of workers who offered some kind of service via a platform in 2017 and compares this to the total number of workers in each of the 14 participating EU countries. Internet users aged between 16 and 74 were surveyed to find out if they had ever worked for an online digital platform.

Figure 3 shows the results of this survey.

The different platforms through which service providers work have two things in common: the use of new information technology and mobile applications for communication between platforms and workers and flexibility in service provision.

Figure 3. *Percentage of workers who provided a service via a platform in 2017*

Country	Adjusted estimate (%)
United Kingdom	12
Spain	11.6
Germany	10.4
Netherlands	9.7
Portugal	10.6
Italy	8.9
Lithuania	9.1
Romania	8.1
France	7
Croatia	8.1
Sweden	7.2
Hungary	6.7
Slovakia	6.9
Finland	6
Total EU	9.7

Such factors, combined with the international nature of many of the initiatives, call into question some of the premises on which labour market and social security system regulation has to date been based: working time; job stability; the notion of place of work; salary or payment for services rendered; and working conditions.

Most notably when it comes to the so-called "crowdworking" platforms, with their business model based on the division of labour through outsourcing tasks to an array of individuals who are managed by the platform. Not to mention those platforms relying on the "on-demand" model, most commonly found in the transport and tourism industries, where the rates and working conditions lead to greater job insecurity, particularly among vulnerable groups such as young people.

The International Labour Organization's report on *Digital labour platforms and the future of work: Towards decent work in the online world* (2018) acknowledges that "one of the major transformations in the world of work over the past decade has been the emergence of online digital labour platforms".

This document is one of the first-ever comparative studies on working conditions and is based on two surveys, carried out in 2015 and 2017, covering 3,500 workers from 75 countries around the world working on five major task-allocation platforms.

The report concludes that "compensation from crowdwork is often lower than minimum wages, workers must manage unpredictable income streams, and they work without the standard labour protections of an employment relationship".

Figure 4. *Percentage of platforms in Europe as per 2017 COLLEEM survey, additional estimates*

Country	Hours (%)	Income (%)	
	At least 10 hours per week	At least 25% of total income	At least 50% of total income
United Kingdom	56.1	71.0	35.7
Spain	56.7	52.1	17.6
Germany	63.1	62.8	23.9
Netherlands	55.0	66.8	29.8
Portugal	56.1	39.6	15.4
Italy	61.0	61.0	20.4
Lithuania	61.3	60.9	17.7
Romania	55.8	47.7	9.7
France	59.7	69.1	25.8
Croatia	63.9	36.6	12.8
Sweden	49.2	64.1	23.0
Hungary	62.0	52.7	19.2
Slovakia	39.6	53.5	12.5
Finland	48.9	54.4	10.7
Total	58.2	61.8	24.0

This same study gives an idea of time worked, in hours per week, and the proportion of a worker's total income that stems from their platform work.

Ultimately, there are shortcomings regarding the protection of workers providing services in a platform environment.

The provision of a minimum level of social protection for platform workers is therefore critical.

In the European context, a number of measures have already been taken to address this issue. One of these is the Commission's creation, in 2018, of the Observatory on the Online Platform Economy, with a view to monitoring the development of Europe's collaborative economy, gathering statistics and other data from member states and other interested parties for use in decision making.

More recently, the European Parliament *(Legislative resolution of 16 April 2019 on the proposal for a directive of the European Parliament and of the Council on transparent and predictable working conditions in the European Union P8_TA-PROV(2019)0379)* has drawn up a set of mandatory minimum standards to protect workers. The objective is to provide legal certainty and improve the quality of work, regardless of the legal status accorded to the service being rendered.

This definition of what constitutes a service and how this sits within national legal frameworks is currently generating a great deal of debate that centres, fundamentally, on whether these workers should be subject to labour law (by virtue of an employment relationship with the platform to which they are providing the service) or be considered autonomous or self-employed workers.

Either of these options would engender the workers' integration into the appropriate regime of a country's social security system and, consequently, determine the contributions to be paid and the benefits they are eligible to claim.

Such questions are also important as they impact on the funding of social security systems, particularly that of contributory systems.

There is, however, no easy answer as the type of work carried out by these workers does not, owing to its particular nature, fit neatly within the framework of social security systems as they currently stand. Indeed, some have proposed the creation of a new category of worker and others have even suggested the outright exclusion of such workers as they do not fit within one of the current legal categories.

4. Regulatory initiatives for the social protection of platform workers

This section outlines a range of regulatory initiatives related to platform workers' employment relationships and their social protection.

To this end, we have drawn on numerous official sources and references from reports and press releases published by organizations taking part in the study – among others, the OECD report entitled *The future of social protection: What works for non-standard workers?*[1] and the European Agency for Safety and Health at Work report entitled *Protecting workers in the online platform economy: An overview of regulatory and policy developments in the EU* for EU countries.

For countries outside the EU, we consulted the report by Victoria's Department of Parliamentary Services (Australia) *Labour rights in the gig economy*; and the report entitled *The destiny of web platforms workers in China: Employees, nothing or a third option?*.

4.1. Germany

In Germany, platform workers are considered to be neither self-employed nor employed.

The Homeworking Act extends to these workers some degree of protection in terms of sick leave, health and safety, parental leave, etc.

It dubs them "employee-like persons" – economically dependent workers – since the salary they receive stems principally from one payment source, although they may work for several.

In parallel, there has been much debate surrounding the potential for fraudulently concealing work, which has given rise to a reform of the German Civil Code (article 611a) with a view to establishing a clear and distinct demarcation between employment contracts and service contracts, the latter of which would apply to platform workers.

Furthermore, the German Federal Court of Justice, on the subject of the creation of a personal dependency relationship with platforms, sustains that given the possibility for a worker to refuse work and suffer no direct penalty, no such dependency relationship exists.

Finally, in March 2017, eight platform-based organizations signed a Code of Conduct in which they agreed to respect local wage norms when setting the prices of their platform-based services. This code has, in turn, served to convince the Government of the need to regulate platform activity.

[1] read.oecd-ilibrary.org/social-issues-migration-health/the-future-of-social-protection_9789264306943-en#page186

4.2. Denmark

The platform economy, in particular the sharing economy, has sparked the interest of Denmark's key political and social players. This said, no concrete measures have been put in place in terms of policy, social dialogue, regulation or jurisprudence where digital platforms are concerned.

The provisions of the Danish Working Environment Act apply to employed workers and consider the following factors:

- Whether the worker is subject to instructions and checks at work.
- Whether the worker is required to be available for work.
- Whether the worker is given access to a workspace, machinery, tools, materials or other equipment required to carry out the work.
- Whether the employer bears any risk for the output.
- In certain cases, how the work is remunerated.

Platform economy activities that do not fulfil these general criteria are considered to be carried out by self-employed workers.

Denmark belongs to the Nordic Future Group, as do Finland, Iceland, Sweden and Norway. This group was specifically created to tackle the issue of occupational health and safety in the digital economy. The group has looked at the following areas, among others:

- How to apply general workers' rights in the case of a difficult-to-define contract: the right to be paid for the work undertaken, the right to timely remuneration, adequate training in occupational health and safety, self-assessment of the risks involved, working hours, sickness cover, annual leave, healthy and safe working conditions, preventive healthcare in the workplace, the right of assembly, worker safety representatives, social dialogue and the application of European and national legislation.
- Given that these rights cannot be separated from the definition of the working relationship, how to define the employee–worker / producer–purchaser relationship when agreeing to future working arrangements and how to ensure adequate working conditions when subcontracting.
- For the purposes of specific occupational health and safety risk assessments, how to determine the place of work, how to guarantee and assess worker safety while commuting, how to ensure that workers have the requisite competencies, qualifications and time for training while configuring their workplaces, and whether or not they are able to manage and control their own work.

4.3. Spain

The platform economy has raised in Spain, just as in neighbouring countries, two questions whose resolution is still outstanding:

- The legal status of platform activities.
- The legal status of the services rendered and workers' integration in the social security system.

On the first point, it is worth noting that platform activity began in Spain in around 2010, in the midst of the economic crisis, and provoked significant jurisdictional disputes, such as in the case of Uber. The controversy centred on whether Uber should be considered an "information society service" or if it was a company providing transport services.

As far as the status of the services is concerned, Spanish law offers three possibilities:

- To take the working relationship to be one covered by Spain's Workers' Statute (Royal Legislative Decree 2/2015). Whether workers are considered subject to labour law or not depends on whether they are working of their own volition; whether they are working for themselves or are dependent on another entity; and the manner in which they are remunerated.
- To consider the worker as autonomous or self-employed in accordance with the Self-Employed Workers' Statute (Law 20/2007). In other words, a commercial relationship entered into by a private individual, for profit, on a regular, direct and personal basis.
- Also falling within the legal scope of Law 20/2007 (the Self-Employed Workers' Statute), to consider the worker as an "economically dependent self-employed worker" (TRADE). In this case, the work is carried out for profit, on a regular, direct, personal and predominant basis for a private individual or company from whom the worker receives at least 75 per cent of his or her income.

All three options require the worker to be registered with the appropriate regime of the social security system: the General Regime for employed workers or the Special Regime for Self-Employed Workers. The regime also dictates the level of contributions required.

Whether a worker is considered employed or self-employed has no bearing on the cover provided by the social security system, which the worker receives in all cases. It does, however, affect the overall level of contributions to be paid as well as a platform's need to contribute to these (in the case of employees, they must pay a proportion), with implications for the cost of the business activity.

It also has an impact on two other issues that in turn affect the funding of the system: the first is any benefits provided by the platform itself, and the second, the proportion of contributions that the platform is required to pay, which is dictated by the nature of the worker's service.

In general, platforms have chosen to consider their service providers as self-employed workers and have formalized this relationship through commercial contracts. Workers, for their part, and in accordance with the social security rules, have registered with the Special Regime for Self-Employed Workers.

Inspections that have previously taken place in the platform sphere have determined the nature of this relationship to be one of employment. As such, the workers should in fact belong to the social security system's General Regime.

Such interpretations, which consider the legal relationship one of employment, will continue to be subject to inconsistent court rulings until such a time as the legal nature of this type of service has been conclusively established.

There are currently court battles in process involving workers on the Glovo and Deliveroo platforms, which are devoted to home deliveries.

4.4. France

For some time already, the regulation of platform work has been a priority of the French Government.

On 6 January 2016, the country's National Digital Council (Conseil National du Numérique) released a report on the future of digital working entitled *Travail, emploi, numerique: les nouvelles trajectoires* (Work, employment, digitization: new trajectories) in which the issue of platform work was discussed for the first time.

This document outlines the primary questions that have arisen in the evolution of this business model and puts forward recommendations for its regulation. Among them, that of "providing a framework for platforms within the collaborative economy", which underscores the need to tackle the following issues in the short term:

- Bringing into force platform-specific tax legislation.
- Defining the relationships between collaborative economy workers and platforms.

In terms of the workers, the document highlights that they find themselves in a position of double vulnerability: they are not considered dependent workers, and are therefore not covered by labour law, and neither do they have self-employed status.

Taking this document and other previous assessments as a springboard, in August 2016 platform work was regulated for the first time in *Loi n° 2016-1088 du 8 août 2016 relative au travail*, a law on the modernization of social dialogue and the safeguarding of career paths.

This law sets out that:

- Platform workers can access occupational accident insurance for which the platform is liable.
- Platform workers have union rights: the right to create, belong to and be represented by trade unions.
- Workers have the right to take collective action in defence of their interests.
- A platform must permit the continuing professional development of its workers.
- Workers can request that their work experience for the platform be formally validated.

The above regulation of minimum conditions was further bolstered in 2018 by *Loi n° 2018-771 du 5 septembre 2018,* a law on the freedom to choose one's career path, which amends the previous law and modifies the definition of platform workers as self-employed when platforms are providing them with social protection benefits, health and safety measures, equal opportunities policies, etc.

4.5. Sweden

Here, the political debate surrounding the platform economy has focused chiefly on taxation and consumer protection and, more recently, the impact of these on the labour market.

In general terms, the Work Environment Act of 1974 regulates working conditions. Whether a worker is considered dependent or self-employed depends on a number of factors:

- The degree of will at play in doing the work in question.
- The possession of production resources or tools of work.
- The manner of payment.

In the event of disagreement between the parties, it is the Swedish Work Environment Authority that determines the nature of the professional relationship.

Sweden is also a member of the aforementioned Nordic Future Group.

4.6. United Kingdom

UK law sets out three main types of employment status**:** self-employed, employee and a third category dubbed "worker". In order to determine the nature of the activity in less clear-cut cases, an assessment is carried out (tests of control, integration, economic reality and mutuality of obligation).

The concept of "worker" is defined in the Employment Rights Act 1996, section 230, as "an individual who has entered into or works under a contract of employment or any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual".

There is a degree of controversy regarding the application of these rules to platform workers, with one school of thought in favour of amending the law and drawing up new regulations while others consider the current legal framework to be sufficiently flexible to determine if a given worker falls in the "worker" category.

In May 2017, the House of Commons published its report on *Self-employment and the gig economy*, providing a definition of this type of work as well as a critical assessment of platforms and their impact on working conditions.

Subsequently, in July 2017, the UK Government published *Good Work: The Taylor review of modern working practices***,** which concludes with seven recommendations**:**

1. The national strategy for work should be explicitly directed toward the goal of "good work" for all. It acknowledges that technological change will impact work and it is important to adapt, adding that technology also offers new opportunities for smarter regulation, more flexible entitlements and new ways for people to organize.

2. Platform-based working offers opportunities for genuine two-way flexibility and can provide opportunities for those who may not be able to work in more conventional ways. These opportunities should be protected while ensuring fairness both for those who work through these platforms and those who compete with them. The status of "worker", or "dependent contractor" as the review suggests renaming it, should be clarified to distinguish these individuals from other types of worker.

3. The law should help companies to make the right choices and individuals to know and exercise their rights. Additional protections are required for "dependent contractors".

4. The best way to achieve better work is not national regulation but responsible corporate governance, good management and strong employment relations within organizations,

which is why it is important that companies are seen to take this seriously and that workers are heard.

5. It is vital that individuals understand the importance of strengthening their future work prospects and that they can record and enhance their capabilities through formal and informal learning.

6. A more proactive approach to workplace health is needed.

7. The UK's National Living Wage is a powerful tool to raise the financial baseline of workers. It needs to be accompanied by sectoral strategies engaging employers, employees and stakeholders to ensure that people in low-paid sectors are not facing situations of insecurity.

The Government responded to this review by declaring its intention to replace the category of "worker" with something offering greater clarity, as per the report's recommendation.

There have been a number of legal challenges over these issues: the Uber case in 2016, that of Pimlico Plumbers in January 2017 and the Deliveroo case brought before the Central Arbitration Committee by the IWGB union in December 2018.

4.7. United States

The growth of platforms in the United States has resulted in a great concentration of platforms with global reach based in San Francisco, New York and Austin.

There is, however, no national legislation covering this area.

The US Department of Labor, in the early days of platform activity, issued some guidance on the subject, suggesting that workers for Uber and Lift should be considered employees.

In terms of jurisprudence, a resolution was issued in the State of California in April 2018 by the Supreme Court of California (Dynamex Operations West, Inc. v. Superior Court), setting out three factors that must be present to justify the classification of a worker as an independent contractor rather than as an employee:

- The worker is free from the control and direction of the hiring entity in connection with the performance of the work.
- The worker performs work that is outside the usual course of the hiring entity's business.
- The worker is customarily engaged in an independently established trade, occupation or business of the same nature as the work performed by the hiring entity.

This decision has compelled some collaborative economy businesses to reclassify their workers as employees as opposed to self-employed.

In late April 2019, the Government's Department of Labor published an opinion letter concerning the classification of a group of workers for one platform economy company. These opinion letters reinstated by the current Government offer legal interpretations of the Fair Labour Standards Act (FLSA). They provide responses to questions received by the Department of Labor with a view to clarifying and interpreting the law.

The abovementioned opinion letter finds that the company in question's service providers are independent contractors, although it explicitly mentions that this conclusion is based solely on the facts provided.

4.8. Australia

In 2016, Victoria's then Department of Economic Development, Jobs, Transport and Resources published a report on the labour hire industry and insecure work, citing 35 recommended reforms.

The recommendations affecting this particular sphere of activity highlight the job insecurity and independent-contractor status that are commonplace among collaborative economy workers. The report also urges the state of Victoria to push for a clarification of federal law.

The report underlines that, up until that time, a flexible approach had been taken in terms of jurisprudence; an approach that had given credence to the normalization of agency work arrangements.

In 2017, the Australian Senate set up its Select Committee on the Future of Work and Workers to look at the impact of technology on the future of work, thereby including a consideration of platform workers.

This committee issued a report in September 2018 including a total of 24 recommendations, of which the following are of particular note:

- The committee recommends that Australia's workplace legislation be amended, to strengthen the protections available to workers and their unions, to ensure that all Australians share the economic gains arising from technological and other change. Further, Australia's future workplace laws and legislators will need to more rapidly adapt to and anticipate the evolving nature of work and employment relationships.
- The committee recommends that the Australian Government make legislative amendments that broaden the definition of employee to capture gig workers and ensure that they have full access to protection under Australia's industrial relations system.

Although Australia currently considers platform workers as employees, the ATO[2] has set out a number of tax implications applying to workers in the collaborative economy.

[2] Australian Taxation Office

4.9. China

In China, while employment relations are not formerly laid down in law, they are governed by a 2005 regulation issued by the country's Ministry of Labor and Social Security.

This takes the form of a three-factor test to determine if an employer–employee relationship exists for use in cases where there is no formal, signed contract of employment:

- Both the employee and the employer must meet the requisite legal criteria.
- The employee is subject to labour laws and to the employer's own rules. The employee provides services while under the management of the employer. The employee is paid by the employer.
- The service provided by the employee forms an integral part of the employer's business.

The use of this test to classify labour relations has not prevented legal complaints, which have been resolved in a number of different ways by the courts. One such example is that of E-Daijia (a company providing passenger transport services by way of a mobile application), which received different classifications in Beijing and Shanghai. In the former, the test resulted in the company's workers being considered self-employed, while in the latter the opposite conclusion was drawn.

One of the factors that comes into play when looking to determine the "dependence" or otherwise of a worker is the possibility for that worker to be sanctioned by the company for breach of one or more company-imposed standards.

On 25 August 2016, seven of China's central Government departments published a provisional document on the regulation of platforms, setting out the rights and responsibilities of both parties.

In summary, the question of how best to determine the nature of platform workers' work remains open.

4.10. Court rulings on platform work

Due to their impact, we outline below the legal judgements that have been made to date in the field of platform work in different countries around the world.

- The European Court of Justice's judgement of 20 December 2017, while not specifically linked to the debate on the legal status of workers, ruled that Uber was a transport service and not an information society service as it exercised a certain degree of control over its drivers. This would imply that the drivers have the legal status of employees.

- The UK rulings of 28 October 2016 and 10 November 2017 asserting that Uber drivers are employees (in actual fact "workers", one of three possible employment categories in the UK).
- The UK Central Arbitration Committee's 14 November 2017 resolution on Deliveroo workers, declaring that these workers are self-employed. This resolution was upheld by the High Court of Justice in its ruling of 5 December 2018.
- The Paris Court of Appeal ruling of 9 November 2017 classifying Deliveroo workers as self-employed, not employees.
- The Paris Conseil de Prud'Hommes resolution of 1 February 2018 declaring Uber drivers to be self-employed.
- The Pennsylvania District Court judgement of 11 April 2018 classifying UberBlack drivers as self-employed.
- The Supreme Court of California's ruling of 30 April 2018 declaring Dynamex drivers to be employees.
- The 10 April 2018 first-instance ruling in Turin classifying Foodora riders as self-employed.
- The 28 November 2018 ruling of the French Court of Cassation on Take Eat Easy riders that overturned the initial ruling (which considered them self-employed), instead declaring them employees.

5. Conclusions

- The collaborative economy's general level of innovation and impact and, in particular, the advent of the "platform economy" are motive enough for social security institutions to establish data-collection mechanisms to provide them with the information they need to decide how best to adapt their systems to new and diverse forms of work.
- Given that the legal status of a worker's services determines his or her inclusion and appropriate positioning within a social security system, clear and conclusive regulation is vital. If a system is poorly defined and there are delays in providing legal clarification, this can give rise to underfunding – particularly in the case of contributory systems. It is also essential to anticipate the potential asymmetries between the benefits system in force and any lack of contributions or infracontributions that may result from ambiguity surrounding what is expected of platforms and their workers.
- It is important to assess the position of the platforms vis-à-vis social security systems: their duty to inform and cooperate with the entities responsible for system management; their obligation to pay contributions linked to their business activity; and their corporate responsibility for their service providers (accidents at work).

- Technological innovations in the internet and communications have introduced a number of substantial idiosyncrasies regarding how work is carried out that are tricky to marry up with existing employment and social security systems. Certain issues that have a particular bearing on the future of social security systems must be analysed. These include, but are not limited to, contribution requirements, which are normally established by virtue of a worker's hours and remuneration; situations of moonlighting resulting from taking on work from several platforms; and the division of labour and the tax and employment obligations engendered by crowdwork or casual work.
- Social security systems need to guarantee a minimum level of protection to platform workers. The difficulties inherent in legally determining the nature of their work should not represent an obstacle to their social protection in line with that of other workers. Social security systems need to avert the gaps in coverage that can arise as a result of inadequate regulation of the work in question or owing to the atypical conditions in which it is carried out, some of which have not yet been legislated for.

Digital platforms, drawing on the latest developments in information and communications technology, have created a new business model that is experiencing significant global economic growth. The effective intermediary role they play for service providers and users alike has fostered new opportunities.

This document could serve as a starting point from which to improve understanding of and promote debate around the impact of this new reality on social security systems. It goes without saying that such work should be followed up by more in-depth analysis and the formulation of proposals for action – among other things, to clarify the legal relationship between these workers and the platforms as well as how best to assimilate them into social security systems, which will ultimately determine everyone's rights and responsibilities.

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