



DIRECTORATE-GENERAL FOR INTERNAL POLICIES

POLICY DEPARTMENT **A**  
ECONOMIC AND SCIENTIFIC POLICY



Economic and Monetary Affairs

**Employment and Social Affairs**

Environment, Public Health and Food Safety

Industry, Research and Energy

Internal Market and Consumer Protection

# The Social Protection of Workers in the Platform Economy ANNEX

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**

**ANNEX**

## **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.

## **AUTHOR(S)**

Chris FORDE, Mark STUART, Simon JOYCE, Liz OLIVER, Danat VALIZADE, Gabriella ALBERTI, Kate HARDY, Vera TRAPPMANN, Charles UMNEY, Calum CARSON, Centre for Employment Relations Innovation and Change (CERIC), University of Leeds, LS2 9JT, United Kingdom.

With contributions from JUSTYNA KATJA (Poland) and GABRIELA YORDANOVA (Bulgaria).

## **RESPONSIBLE ADMINISTRATOR**

Marion SCHMID-DRÜNER

## **EDITORIAL ASSISTANT**

Janetta Cujkova

## **LINGUISTIC VERSIONS**

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## **ABOUT THE EDITOR**

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To contact Policy Department A or to subscribe to its newsletter please write to:

Policy Department A: Economic and Scientific Policy

European Parliament

B-1047 Brussels

E-mail: [Poldep-Economy-Science@ep.europa.eu](mailto:Poldep-Economy-Science@ep.europa.eu)

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**MAIN STUDY:**

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## ANNEXES

### ANNEX 1: PLATFORM WORK IN CASE STUDY COUNTRIES

#### 1. UNITED KINGDOM

Platform economy work is well established in the UK, and the UK has been the site of a number of recent legal judgements relating to employment status and protection of workers in the platform economy. The UK is a liberal market economy, in which there is relatively little employment regulation and social protection provisions, when compared to many other EU Member States. Employment levels have increased to historically high levels over the last two years, and unemployment is falling. However, inactivity levels remain high, and **there is ongoing debate over the quality of new jobs being created in the UK**. In particular, there has been a marked rise in contingent, precarious forms of work, and in zero-hours contracts (where workers have no guarantee of a regular number of hours of work each week). There has been a secular decline in manufacturing employment that has been more marked than in many other countries. Union membership and density has seen long-term decline since the 1980s, and collective bargaining coverage has fallen.

The UK labour market is regulated through labour law, with Acts, Regulations and common law providing for a minimum set of employment rights. This includes rights to a minimum wage (currently called the National Living Wage), working time limits, the right to paid holidays, right to leave for child care, and the right to request flexible working patterns. A Pensions Act gives workers the rights to be automatically enrolled in a basic occupational pension. There are also rights around equality and fair treatment, enshrined in the Equality Act, and regulations ensuring equal treatment for temporary, part-time and agency staff. By well-established measures, the UK ranks among the lowest of EU Member States in terms of protection for permanent and temporary employees, and these protections have been reduced yet further in recent years in some areas, including a reduction in protection against dismissal.<sup>1</sup>

##### 1.1. Labour market trends

In March 2017, there were 31.95 million people in work in the UK. This represents a rise of 380,000 on March 2016.<sup>2</sup> According to Eurostat figures, employment rates have risen in the UK since 2011, from 73.5 per cent to 77.6 per cent for the last full year of data available in 2016 (see Table A1). The employment rate for men is 79.5 per cent and for women, 70.2 per cent.<sup>3</sup> In March 2017, there were 1.54 million unemployed people in the UK (people not in work but seeking and available to work). This figure fell by 152,000 between March 2016 and March 2017.<sup>4</sup> The unemployment rate in the UK in 2016, according to Eurostat figures, stood at 4.8 per cent, down from 8.1 per cent in 2011, and 5.3 per cent in 2015.<sup>5</sup> For men, the rate is 4.9 per cent and for women, it is 4.6 per cent. **The unemployment rate has been falling in the UK since late 2011.**<sup>6</sup> Of the unemployed, 40 per cent have been without a job for more than 6 months.

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<sup>1</sup> Brinkley 2015: 1.

<sup>2</sup> ONS 2017: 2.

<sup>3</sup> Ibid.: 2.

<sup>4</sup> Ibid.: 3.

<sup>5</sup> Eurostat 2017a: 1.

<sup>6</sup> ONS 2017: 3.



**Table A 1: Employment and Unemployment rates in the UK, 2016**

|    | Employment Rate (%) | Unemployment rate (%) |
|----|---------------------|-----------------------|
| UK | 77.5                | 4.8                   |
| EU | 71.1                | 8.6                   |

Source: Eurostat (2017a)<sup>7</sup>

One in five of the UK population aged between 20 and 64 is inactive. Male inactivity rates have doubled in the UK from 1980-2017 from 8 to 16 per cent. Female inactivity rates rose during the economic recession to a peak of 29 per cent in 2011, but have fallen to 26 per cent in 2017.<sup>8</sup>

There have been long term falls in the proportion of jobs in the manufacturing sector in the UK, and the fall is generally recognised to be sharper than in many other EU countries. **By 2017, the proportion of jobs accounted for by the manufacturing sector was 7.7 per cent, down from 30 per cent in 1980.** In contrast, the proportion of jobs accounted for by the services sector increased from 63.2 per cent to 83.6 per cent over the same period.<sup>9</sup>

**Public sector employment has fallen over the last 25 years**, with sharper falls observed since the recession of 2009-2010. In December 2016, there were 5.44 million people employed in the public sector (17 per cent of the workforce) and 26.41 million people employed in the private sector (83 per cent).<sup>10</sup>

In terms of the occupational composition of employment, there have been rising employment levels and shares for managerial, professional, associate professional and technical jobs. Women remain relatively under-represented in managerial and technical occupations compared to men in the UK. There have been sharp increases in leisure related and other personal service occupations, and women are over-represented in these occupations. There have also been declines in the number of workers in administrative and secretarial occupations, and most blue collar/manual occupations.<sup>11</sup>

**Pay levels have stagnated following the economic recession.** Average regular pay (excluding bonuses) for employees in the UK in March 2017 was £465 per week before tax and other deductions from pay, £16 lower than the pre-downturn peak of £481 per week recorded for May 2008.<sup>12</sup> Earnings growth between January to March 2016 and January to March 2017 measured by regular pay fell by 0.2 per cent, the lowest growth rate since 2014.<sup>13</sup>

**Part-time employment** is relatively high in the UK, compared to other EU countries. A quarter of the workforce was employed on a part-time basis in 2016, with only Belgium, Germany, Netherlands and Austria having higher rates of part-time employment.<sup>14</sup> Nearly four out of every ten (38 %) women in the UK work part-time, compared to ten per cent of men.<sup>15</sup>

<sup>7</sup> Eurostat 2017a: Employment and Unemployment Labour Force Survey Data: Tables, available at: <http://ec.europa.eu/eurostat/web/lfs/data/main-tables>.

<sup>8</sup> ONS 2017: 4.

<sup>9</sup> Ibid.: 5.

<sup>10</sup> Ibid.: 6.

<sup>11</sup> UKCES 2016: 12.

<sup>12</sup> ONS 2017: 7.

<sup>13</sup> Ibid.: 4.

<sup>14</sup> Eurostat 2015: 3.

<sup>15</sup> Ibid.: 3.

**Table A 2: Part-time, temporary and self-employment in the UK, 2016**

|    | Part-time employment (%) | Temporary employment (%) | Self-employment (%) |
|----|--------------------------|--------------------------|---------------------|
| UK | 25.2                     | 5.1                      | 14                  |
| EU | 19.5                     | 12.0                     | 14                  |

Source: Eurostat (2017a); Eurostat (2017b)<sup>16</sup>

**Temporary employment** in the UK stood at 5.1 per cent (1.5 million workers) in 2016, and this figure is seen as relatively low in comparison to many EU countries.<sup>17</sup> However, this figure has risen over recent years, and this aggregate figure also masks significant rises in individual forms of temporary working. Temporary agency working, in particular, where many platform economy workers are located, has risen sharply since the 1980s, from 0.25 per cent of the workforce to between 2 per cent of the workforce, according to Labour Force Survey figures.<sup>18</sup>

**Self-employment** – a key form of working in the platform economy – is also relatively high in the UK compared to some of the other EU countries considered in this report, although the figure of 14 per cent is the same as the average for the EU as a whole.<sup>19</sup> Fourteen per cent of all people in work were engaged on a self-employed basis in 2016.<sup>20</sup> This figure represents 4.78 million people and has risen by 82,000 over the last year.<sup>21</sup> Indeed, the rise in self-employment has been particularly marked in the UK, both during and after the recent recession, with many arguing that “involuntary” self-employment (those undertaking self-employment because they cannot find another job), in particular, has risen sharply.<sup>22</sup>

**Union membership** has been falling in the UK since 1979. While membership levels have stabilised in recent years, the latest annual figures (for 2015-2016) show further significant levels of decline.<sup>23</sup> The number of employees who were trade union members was around 6.2 million in 2016, 275 thousand less than in 2015 (a 4.2 % decrease). Given growth in the total number of people in employment, the proportion of employees who are trade union members fell to 23.5 per cent in 2016, compared to 24.7 per cent in 2015. The overall proportion of private sector employees who are trade union members declined to 13.4 per cent from 13.9 per cent in 2015. The proportion of public sector employees who are trade union members decreased to 52.7 per cent in 2016 from 54.9 per cent in 2015. Just over a quarter (26.3 %) of workers are covered by collectively bargained pay agreements in the UK with the figure being 59 per cent for those in the public sector, and 14.9 per cent for the private sector. Membership and collective bargaining coverage is greater for those in direct, permanent employment compared to those in contingent employment forms.

<sup>16</sup> 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, <http://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20170906-1>.

<sup>17</sup> Ibid.: 4.

<sup>18</sup> Forde and Slater 2014: 20.

<sup>19</sup> Eurostat 2015: 5.

<sup>20</sup> Eurostat 2017b: 1.

<sup>21</sup> ONS 2017.

<sup>22</sup> See for example, Klair 2016: 1.

<sup>23</sup> Department of Business Innovation and Skills 2017: 5.

## 1.2. The platform economy

### 1.2.1. Legal context

In UK employment law, there is a key distinction between worker, employee and self-employed status, and these definitions determine which employment rights workers are entitled to (see also discussion in Chapter 4). Debates over these categories have come to the fore during recent court and tribunal cases involving individuals, or groups, of platform and “gig” economy workers.

Workers in the UK are entitled to certain employment rights, including getting the National Minimum Wage; paid holiday, rest breaks, working time limits; protection against discrimination; entitlement to be treated no less favourably if they work part-time. However, they are not typically entitled to minimum notice periods before dismissal. They also do not typically receive statutory redundancy pay or the right to request flexible working.<sup>24</sup>

All employees are workers, but an employee has extra employment rights and responsibilities that do not apply to workers. These rights include Statutory Sick Pay; statutory maternity, paternity, adoption and shared parental leave and pay; minimum notice periods if their employment will be ending, for example if an employer is dismissing them; protection against unfair dismissal; the right to request flexible working; time off for emergencies; and Statutory Redundancy Pay. Some of these rights require a minimum length of continuous employment before an employee qualifies for them.<sup>25</sup>

A person is self-employed if they run their business for themselves and take responsibility for its success or failure. Self-employed workers do not typically have the employment rights of employees or workers. In the case of workers in the platform economy, there has been widespread debate over the extent to which workers are being wrongly classified and categorised as self-employed by agents, intermediaries and platform providers (see discussion of selected cases, Chapter 4).

Platform work has triggered considerable media interest in the UK. After an initial burst of enthusiasm about the (supposedly) egalitarian potential of the platform economy, media coverage has increasingly focussed on low pay, poor working conditions, questionable contractual arrangements, perceived employer abuses, and lack of social protections. As a result, public and political discourse has increasingly situated the gig economy alongside other forms of precarious labour, such as zero-hours contracts (in retail and many other sectors), umbrella companies (especially in supply teaching and construction), and the use of agency staff under draconian conditions (for instance, at Sports Direct, and Amazon).

Media coverage of collective organisation and unrest among workers on platforms such as Deliveroo has explicitly linked the platform economy with the growth of precarious work – and union activity – in other sectors. Indeed, issues around the platform economy and precarious work have seen unions taking a relatively high profile stance; both established unions such as Unite and GMB, as well as newer, small and militant unions such as the Independent Workers Union of Great Britain (IWGB) and United Voices of the World (UVW). Perhaps most significant from a policy perspective, three recent court cases have underlined common features between the gig economy and other forms of precarious work: employment tribunals have found that people working for Uber, CitySprint, and Pimlico Plumbers were not self-employed, contrary to the claims of these companies, and rather, they should be treated as workers.<sup>26</sup>

<sup>24</sup> Gov.uk 2017: 1.

<sup>25</sup> Ibid.: 2.

<sup>26</sup> Taylor Wessing 2017: 1.

Growing concern over employment practices in the platform economy has led to signs of moderation in the UK government's established non-regulatory approach. In particular, official recognition of concern led in November 2016 to the Conservative government setting up the Taylor Review of Employment Practices in the Modern Economy, which has considered the implications of new forms of work, driven by digital platforms, for employee rights and responsibilities, employer freedoms and obligations and the existing regulatory framework surrounding employment.<sup>27</sup> This review has included in its work both definitions of employee status and access to social protections. At the same time, two parliamentary select committees have conducted investigations into related areas. The Business, Energy and Industrial Strategy Select Committee has conducted an enquiry into the "Future world of work and rights of workers",<sup>28</sup> with considerable discussion of ways of clarifying or, indeed, challenging the (mis)categorisation of workers in new forms of precarious work, including online platforms and the gig economy. At the same time, the Work and Pensions Committee investigated self-employment and the gig economy, with a particular focus upon how the benefits system might be tailored to fit growing numbers of "self-employed".<sup>29</sup> Thus, there are significant indications that official debate over social protections for workers in the platform economy in the UK is shifting to reflect the scale of public concern over employment practices in this growing sector of employment.

### 1.2.2. Development of the platform economy

As of December 2016, some 92 per cent of UK adults (aged 16-74) use the internet every day or nearly every day, and 78 per cent have used the internet to buy goods or services for personal use in the last three months.<sup>30</sup> Not surprisingly, then, online economic activity has seen considerable growth in the UK in recent years, including the platform economy. Nevertheless, precise data on the scale of participation in this type of work remains elusive. In 2014, NESTA<sup>31</sup> estimated that 64 per cent of the UK population had participated in the "collaborative economy" – defined very broadly to include buying and selling goods over the internet, but not including paid work. In 2015, using the same broad definition, NESTA<sup>32</sup> estimated that around one third of the UK population had sold personal items in the "collaborative economy" via the internet.

Looking specifically at paid work carried out via the mediation of online platforms, there is growing evidence that a small but significant proportion of the workforce participates in this type of employment in the UK. An online survey carried out in January 2016 found that 5 per cent of the sample carried out paid work via an online platform at least once a week, with a further 4 per cent having done so at some time in the past.<sup>33</sup> Using a somewhat larger sample, a further online survey carried out in December 2016 found that 4 per cent of participants had engaged in this type of work at least once in the previous twelve months.<sup>34</sup> Both these surveys also found that for a substantial minority, work via an online platform provided their main source of income. Thus, while there remains a need for large scale, offline research to establish definitively the scale of platform-mediated work in the UK, what

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<sup>27</sup> BEIS 2016.

<sup>28</sup> BEISC 2017. The UK general election of June 2017 formally dissolved parliament and therefore terminated this Select Committee enquiry; however, a considerable amount of evidence had already been taken, both written and oral, which has been made available.

<sup>29</sup> WPC 2017.

<sup>30</sup> Eurostat 2016a: 3.

<sup>31</sup> NESTA 2014: 22.

<sup>32</sup> *Ibid.*: 5.

<sup>33</sup> Huws, et al. 2016: 28.

<sup>34</sup> CIPD 2017b: 4.

research has been carried out so far demonstrates its presence as a non-trivial and apparently growing sector of employment in the UK.

Despite difficulties estimating the size of the platform economy, economic activity in this area has become sufficiently commonplace that a number of platforms, such as Airbnb and Uber, are now household names in the UK. Among the work platforms (as opposed to rental or sales sites), the best known include Uber, Deliveroo, Upwork, Freelancer, RatedPeople and TaskRabbit. There is also evidence that platform providers are now starting to move into areas of employment that have previously been precarised as a result of outsourcing and privatisation of former public services; for example, SuperCarers.com to provide domiciliary social care using an online platform model. What is more, alongside details for potential customers about how to access and pay for their services, the websites of these companies all carry information for anyone who wants to engage in paid work to provide those services.

As for workers in the gig economy, research suggests that they tend to be young, to have another job, to be relatively evenly balanced in terms of gender, and to be relatively highly educated (though less so than US studies suggest). The work they do is varied, low-paid, unreliable, and often intermittent.<sup>35</sup>

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<sup>35</sup> CIPD 2017a: 6; Huws, et al. 2016: 28-39.

## 2. FRANCE

France is an important country in which to study the development of the platform economy. Platform working has grown rapidly, particularly through the intersections with the leisure and tourism industry. Airbnb, for example, considers France to be one of its important markets, and there are a large number of smaller French start-ups focused on leisure, tourism and homemade food and drink. Much of the platform economy in France is undertaken by people who hold down **other kinds of work as well, as a means of supplementing their income** rather than a sole source of revenue. This, however, is by no means universal and there are important exceptions, most importantly Uber. Uber's French operations have sought to engage drivers who are from relatively less affluent backgrounds and who tend to become more reliant on the company for work. The relationship between the company and these drivers has been fractious and the subject of sometimes fierce confrontation.

France is also an important country because of the challenges the platform economy poses to the established employment relations system. Much of French social protection legislation is designed with a standard permanent employment relationship in mind. As such, there are some important weaknesses in the way social institutions protect platform economy workers, and some notable deficiencies in their levels of protection when compared to salaried workers. There have been attempts to create statuses such as that of *auto-entrepreneur*, along with efforts at stimulating cooperative institutions for the self-employed, though these initiatives have encountered some teething problems. France's comparably State-centric employment relations context may also play an important role in shaping the collaborative economy in future. Government, for instance, intervened directly to make recommendations to progress the dispute between Uber and its drivers.

### 2.1. Labour market trends

France has an **unemployment rate** of 10.1 per cent, higher than the EU28 average (8.6 %), and sixth-highest within the EU.<sup>36</sup> According to Eurostat,<sup>37</sup> France is one of only five EU countries where the unemployment rate did not decline from March 2016 to March 2017, and unemployment has remained persistently high at over 10 per cent since 2013.

**Table A 3: Employment and Unemployment rates in France, 2016**

|        | Employment Rate (%) | Unemployment rate (%) |
|--------|---------------------|-----------------------|
| France | 70.0                | 10.1                  |
| EU     | 71.1                | 8.6                   |

Source: Eurostat (2017a)<sup>38</sup>.

As of 2016, France's employment rate was 70 per cent<sup>39</sup>. Fifty-six per cent of France's unemployment was short-term, as of 2015.<sup>40</sup> This puts it fifteenth in the EU28 in terms of rates of long-term unemployment. However, youth unemployment is a particular problem in France, with 24.6 per cent of the youth labour force being unemployed as of 2016, compared to the EU28 average of 18.7 per cent.

Contingent and flexibilised forms of work have been increasing in France (Table A4 presents figures for 2016), partly encouraged by government efforts to liberalise the labour market.

<sup>36</sup> Eurostat 2017c: 1.

<sup>37</sup> Ibid.: 1.

<sup>38</sup> Eurostat 2017a: Employment and Unemployment Labour Force Survey Data: Tables, available at: <http://ec.europa.eu/eurostat/web/lfs/data/main-tables>.

<sup>39</sup> Ibid.: 2.

<sup>40</sup> Ibid.: 3.

**Temporary employment** in France has been growing since the turn of the millennium, at a rate which is slightly faster than the EU average, and is now at around 14 per cent. These trends in France, alongside other major European economies such as Germany and Italy, account for much of the wider growth in temporary work across the EU as a whole. Part-time employment is well established in France with nearly one in five workers employed on this basis in 2016. In addition, trends in temporary work may be seen as evidence of growing segmentation in the French labour market, as temporary workers are likely to be clustered in lower-paying firms (rather than temporary contracts being primarily used as part of a mix within firms).<sup>41</sup> According to the World Bank and Eurostat figures<sup>42</sup> the **self-employment rate** in France as of 2016 was between 11-12 per cent, having risen slightly after the 2008 crisis.

**Table A 4: Part-time, temporary and self-employment in France, 2016**

|        | Part-time employment (%) | Temporary employment (%) | Self-employment (%) |
|--------|--------------------------|--------------------------|---------------------|
| France | 18.3                     | 14.3                     | 11                  |
| EU     | 19.5                     | 12.0                     | 14                  |

Source: Eurostat (2017a); Eurostat (2017c)<sup>43</sup>.

France has a highly distinctive employment relations system, notable principally for the **large gap between union density rates and collective bargaining coverage**. While union membership is extremely low by European standards (at around 7%, having declined significantly over the past thirty years), collective bargaining coverage is as high as 98 per cent.<sup>44</sup> This gap partly reflects the important role of the State in French employment relations: the government mandates company-level negotiations over pay, working time and other issues though companies are not obliged to reach agreements and can impose terms and conditions unilaterally if they see fit. Company-level bargaining has been encouraged in recent years, and there have been measures implemented to allow these agreements to deviate from industry level conditions. In addition, government extends collective bargaining coverage by mandating the extension of particular company-level agreements across industries when it deems it appropriate.<sup>45</sup>

**In terms of social protection, France is typically considered a conservative welfare state**, with status-preserving benefits being maintained by a contributions-based system. In response to concerns around youth unemployment, new non-contributions-based mechanisms were introduced, primarily RMI/RSA, although workers under-25 are usually (though not always) excluded from this. Healthcare follows a social health insurance model, though the coverage of basic schemes has been declining and people are being encouraged to fund their own additional coverage through private or mutual insurers.

## 2.2. The platform economy

### 2.2.1. Legal context

The growth of the platform economy in France has been contested and has raised important legal questions. These are particularly visible in relation to the expansion of larger

<sup>41</sup> Ibid.: 1.

<sup>42</sup> World Bank 2016: 1.

<sup>43</sup> Eurostat 2017a: Employment and Unemployment Labour Force Survey Data: Tables, available at: <http://ec.europa.eu/eurostat/web/ifs/data/main-tables>; Eurostat 2017b Taking a Look at the Self-employed in the EU, <http://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20170906-1>.

<sup>44</sup> Worker Participation.eu 2016: 2.

<sup>45</sup> Ibid.: 2.

multinational firms, notably Uber and Airbnb, the two biggest platform economy enterprises operating in France. **These companies have adopted contrasting strategies in relation to French legislation.** Uber has been confrontational in dealing with French regulators, having fallen afoul of legal rulings (particularly with its UberPOP service) and having been the subject of major protest organised by taxi driver unions who see it as evading key regulations. Airbnb has an easier relationship with French authorities, though the established hospitality industry has been lobbying strongly against it on the grounds that it escapes regulations they must follow and hence constitutes unfair competition.

One of the most important questions raised by the platform economy in France is the issue of worker status. French employment relations have, as noted, been strongly based around the category of the salaried worker, and the traditional distinction between worker and entrepreneur. The growth of the platform economy has thus been associated with the need to create **new statuses, though the situation in this respect remains contested and ambiguous.** Generally, new statuses have sought to create more categorisations within the broad concept of the entrepreneur, rather than forming an intermediary stage between entrepreneur and salaried worker.

One of the most important developments is the creation of **auto-entrepreneur status.** This refers to individuals working on their own as individual entrepreneurs rather than salaried staff, or as employers in their own right. When individuals set up a business in France, they can choose whether or not to select this status, and they do so in about 45 per cent of cases (Interview, Expert). An *auto-entrepreneur* must earn less than 33k euros per year. *Auto-entrepreneur* status enables people to deviate from the main tax regime for businesses and is intended to simplify book-keeping responsibilities.<sup>46</sup> However, it also introduces **more flexibility in terms of social insurance contributions.** People with low revenue can opt-out of social insurance contributions.<sup>47</sup> Note that current debates in France are seeking to draw further distinctions in this respect. The Social Security Financing Bill 2017 aims to distinguish between platform economy activity that is about earning extra income (e.g. Airbnb) versus cost-sharing to recoup expenses (e.g. BlaBlaCar, which enables people to carpool). The former would then be liable for social insurance contributions while the latter would not.<sup>48</sup> The growth of the platform economy has also been reflected in the development of another new status, that of **entrepreneur-etudiant**, which is intended to provide a framework for students conducting entrepreneurial activity to support their studies or to increase their employability (Interview, Academic expert).

These kinds of developments have done little to assuage debates around the issue of employment status in the platform economy, and the way the ambiguities in this respect affect France's largely contributions-based welfare system. According to a *Cour de Cassation* ruling in 1996, for someone to be classed as an employee there needs to be a *lien de subordination*: "executing work under the authority of an employer who is able to give orders and directives, to control the execution and to sanction shortcomings". So (in theory), to avoid being an employer under French law: workers must be free to accept or not accept a service; the platform mustn't give them instructions: the platform must avoid sanctioning or exercising control over them: the worker must have freedom to choose how to execute the service (without any set procedures or evaluations etc.): and they should determine their own hours and their own hourly tariff. The worker must also not be using the platform's tools.

Despite this framework, until very recently there were no cases where platform economy workers had been **reclassified as salaried employees** at the behest of French courts,

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<sup>46</sup> French Property.com 2017: 1.

<sup>47</sup> Legal Start.fr 2017: 1.

<sup>48</sup> StartbusinessinFrance.com 2017: 1.



though there is the important ongoing dispute between Uber and URSSAF (see below). In January 2017, however, a cab 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). It is too early to say what the wider effects of this might be. *La Tribune*<sup>49</sup> estimates that the fact the judge's decision was based solely on the exclusivity issue (tightened up by the *Loi Grandguillaume* in 2016), means the ruling will be relatively insignificant for many platform economy enterprises. Nonetheless, while there appears to be limited movement in practice, some advocates for "auto-entrepreneurs" see this prospect as a "sword of Damocles" hanging over the sector in France (Interview, Expert).

Note that **France differs from two of the other countries in this study - Germany and Spain** - in that it has not introduced a new "independent worker" status as a midpoint between independent contractor and salaried worker: this is because they are worried that companies would use this not to reclassify independent contractors, but to downgrade the status of those who are currently employed.<sup>50</sup> Pascale Terrasse's<sup>51</sup> proposals are emblematic of current French thinking in calling for a personal and portable social account for individuals, i.e. social insurance accounts which are attached to individuals rather than jobs and carried around from project to project. This, he hopes, would help platform economy workers in a context where they can struggle to gain access to social rights such as housing and unemployment insurance, without necessitating a change in employment status.

Another important development concerning worker status is the concept of **portage salariale**. This idea refers to the creation of cooperative institutions known as CAEs, which act as third-party non-profit employers for those with *auto-entrepreneur* status. In this way, the latter are converted into salaried staff through their participation in a mutualist organisation, enhancing their access to employment rights and social protection. Nonetheless, according to one interviewee (Interview, Government advisory body) these sorts of measures tend to be more applied to older workers moving into partial retirement. Its limited applicability within the platform economy may reflect the fact that participation in these kinds of organisations requires *auto-entrepreneurs* to be employed by the CAE on the basis of a permanent contract (Interviews, Worker representatives). There are restrictions derived from EU law which prevent these kinds of associative organisations from negotiating with platforms, though some may be able to do this in a more informal and amicable way.

There is also concern in France around the way in which platforms are able to avoid making social contributions, as well as requirements around licensing and taxation, by positioning themselves as intermediaries rather than employers. Nonetheless, reports which draw attention to this (e.g. Terrasse report) are often more concerned with the perspective of consumers than workers - for instance, platform economy food enterprises may get around rules concerning hygiene. There is a growing interest in finding ways to distinguish between those who enter the platform economy merely as a pastime and those who do it "habitually", to whom more regulations should be applied (an issue also raised in the Terrasse report). There are also concerns around the extensiveness of the *régime social des indépendants* (RSI), the social insurance fund for *auto-entrepreneurs*. In France, all paid activity, however it is organised and whether it is in addition to a regular income elsewhere or not, obliges

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<sup>49</sup> La Tribune 2017: 1.

<sup>50</sup> Amar and Viossat 2016.

<sup>51</sup> Terrasse et al. 2016.

participants to affiliate to a social security regime. Unlike in many other countries, RSI provides platform workers with relatively extensive social insurance mechanisms.<sup>52</sup>

Accessing RSI benefits is also problematic for the self-employed, owing not so much to the absence of a coherent system but to low pay and, as a result, low contributions.<sup>53</sup> There is also the problem that companies like Uber have tried to avoid paying into RSI through hiding the amount of work that is done. This is the subject of an ongoing legal dispute with URSSAF, the non-profit organisation charged with collecting contributions to French social insurance systems. Expert interviews for this study highlight various specific problems in the coverage of RSI, which make it ill-adapted to coping with the vagaries of working life in the platform economy. It provides only weak protection for short-term absence from work through illness, or life insurance. It also tends to provide weaker coverage in terms of additional health insurance (to cover gaps in public provision). As one interviewee noted (Interview, academic), aspects such as unemployment coverage, and work-related ill-health coverage are voluntary rather than obligatory for *auto-entrepreneurs*, and the self-employed are also less likely to have purchased additional health insurance coverage. RSI also suffers from management problems, such as delays in payment processing, which can disincentivise its supposed beneficiaries.

### 2.2.2. Development of the platform economy

France is one of the leading sites in the development of the platform economy in Europe, with the sector being much more developed than in neighbouring countries such as Germany or Spain. Aside from well-established multinationals, such as Uber, **France produces many of its own platform economy enterprises**; 70 per cent of French platform economy enterprises are domestic startups. The most dynamic and competitive sector is travel, with the biggest French collaborative economy enterprise being BlaBlaCar, which enables people to save or recoup transport costs through carpooling, and which has now expanded from France into various other European countries. The second biggest sector is accommodation; France having a very large tourism industry which makes it very attractive to Airbnb and comparable enterprises. Another major area of platform economy growth in France is in food, with leading examples including Vizeat and *La ruche qui dit oui*. However, in this area, the market is less competitive than in transport, with a more oligopolistic structure. Areas such as odd-jobs and services are also important with various French start-ups (e.g. YoupiJob, SuperMano) but appear to be a very underdeveloped and fragmented market by comparison.<sup>54</sup>

Barbezieux and Herody<sup>55</sup> distinguish between “micro-entrepreneurs”, i.e. people who do many very small tasks for very small fees (e.g. Mechanical Turkers), and *particuliers* (i.e. private individuals) who participate in the platform economy as an “active hobby” (*loisir actif*). The latter, they say, are vastly more common in France than the former, who are comparatively rare. Uber is distinctive here, because in France 71 per cent of its “partners” are dependent on it for the majority of their income. This differentiates it both from other platforms in France, as well as Uber’s own operations in other countries such as the USA (where this figure is only 20%).

French authorities have sought to develop the platform economy through various entrepreneur-development programmes aimed at young people such as ESSEC-Venture, or local public initiatives which try to bring entrepreneurs together with funders (such as

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<sup>52</sup> Amar and Viossat 2016.

<sup>53</sup> Ibid.

<sup>54</sup> PIPAME Report 2015: 6.

<sup>55</sup> Terrasse et al. 2016: 5.

*fundme.fr* in Brittany and STAR WEST in the Loire). Bigger companies such as BlaBlaCar, however, have been accelerated by major multinational financial investment. French policy discourse is usually very keen to disassociate the term “collaborative economy” (which they like and want to encourage) from “Uberisation” (which is usually a pejorative term), hence this focus on encouraging domestic start-ups.

**The precarity of platform economy work is often underplayed** by the use of the term “active leisure” to describe the activities of those working. Some academic observers interviewed for this study argue that many, particularly young people, are driven to become “slashers” (an Anglicism used to indicate people who work simultaneously as auto-entrepreneurs and employees; one of the interviewees for this project put 2 million French people in this category) by stagnant pay and less reliable careers as employees (see typology in Chapter 5).

A key challenge in France relates to representation. **Co-operative organisations (as with the CAEs mentioned above) are important in France**, and provide an important means of accessing protection and rights for many workers. There may, however, be two reasons why these kinds of organisations have limited applicability within the platform economy. For one thing, these kinds of organisations tend to be very small and specialised, prioritising the quality of support over numbers represented, which make them ill-adapted to deal with large platforms. For another, French law imposes certain restrictions on such organisations, requiring that their “employees” be engaged on permanent contracts. This poses a barrier for some organisations, such as the Belgian cooperative *SMart.be* which has sought to extend its operations in France.<sup>56</sup> While it can act as a mutualised employer for some French workers on an exclusively fixed-term basis, this is limited to certain sectors such as the arts. Generally, it would have to engage people as permanent staff.

There are other ways in which platform economy workers are likely to struggle to attain representation. Some have expressed concern that people’s rights to collective representation are being undermined, as is the quality of social dialogue.<sup>57</sup> Workers and unions have big knowledge gaps around the regulatory and legal framework for platform economy work, and there is no collective interlocutor who could bring together platform economy enterprises and government in dialogue (such as Sharing Economy UK in the UK). Platform economy workers have the right to organise collectively in France, but this does not happen much in practice because of geographical dispersal and the isolation and anonymity of the labour process. There is no physical space for socialisation among platform economy workers. There have been organisations like FEDAE (Federation of *auto-entrepreneurs*), but these do not have any collective bargaining functions. Various unions have sought to unionise platform economy workers but their models have proved ill-adapted to do this.

To improve collective voice, **some have suggested new platforms for evaluating platforms where data are provided by worker themselves**.<sup>58</sup> They also want to create an *exception travail* to EU competition law, giving independent worker reps the right to negotiate with platforms over things like commission rates without falling afoul of European law. This runs counter to the *Kunsten* ruling in the ECJ which found that a collective contract stipulating minimum fees for independent service providers is against EU law *unless* they can be shown to be false independents. They see the examples of *FairCrowdWork* in Germany (IG Metall) and *Turkopticon* as examples of platforms that France should try to emulate.

Discrimination is another likely problem. One observer (interview, Academic expert) noted that the growth of the platform economy alleviates problems of discrimination in some

<sup>56</sup> See footnote on p.110.

<sup>57</sup> Amar and Viossat 2016: 14.

<sup>58</sup> *Ibid.*: 16.

respects but exacerbates them in others. Workers from discriminated-against groups may find employment in the platform economy where they are discriminated against elsewhere. However, customer-led means of evaluating service provision is a highly non-transparent tool (the customer has little requirement to justify a low rating for an Uber driver, for instance), meaning there is little transparency or means of recourse against customer-initiated discrimination.

### 3. ITALY

The platform economy in Italy has grown rapidly in recent years, against a backdrop of expanding low-paid, temporary and precarious jobs, and a slow recovery from the economic recession of 2000-2011.<sup>59</sup> However, the platform economy *per se* remains relatively under-developed when compared to some of the case study countries in this report such as the UK or France. Social protection of workers employed via platform working have been the focus of much debate and interest. Some innovations in social protection for self-employed workers in the platform economy are visible. Italy has also seen important labour market reforms under the Renzi government (2014-2016), namely the “Jobs Act”, and most recently a new law, the Statute of Self-Employment (*lavoro autonomo*), has been issued, which will have important implications for the social protection of workers in the platform economy.

Amidst rising unemployment, growing numbers of Italian workers have turned to the platform economy for a second source of income. Recent changes to labour law have meant that some temporary and self-employed workers have seen levels of protection in the labour market increase, although the extent to which the Jobs Act covers many in the platform economy is an open question, and **there remain concerns about the implications of the rise of on-demand working for workers**. For example, Foodora (a company which has sought to provide restaurants with a new source of customers, using “riders” to deliver food), has been the subject of recent labour protests over their terms and conditions of work. An interview with a former worker of Foodora for this study revealed the key challenges in terms of representation and social protections of these low-end sections of the platform economy.

#### 3.1. Labour market trends

According to Eurostat figures (see Table A5), the employment rate in 2016 in Italy was 61.6 per cent, below the EU average, and at a level which has only just returned to the rate in 2009. The increase in employment rate for women has been sluggish. The unemployment rate has gone down from 11.9 per cent in 2015 to 11.7 per cent in 2016, although this figure remains high compared to the EU average. Despite a decline in the inactivity rate among the Italian population between 2015 and 2016, Italy remains the EU country with the highest percentage of population aged between 15 and 64 outside of the labour market (35.1 per cent compared to an EU average of 27.1 per cent).<sup>60</sup>

**Table A 5: Employment and Unemployment rates in Italy, 2016**

|       | Employment Rate (%) | Unemployment rate (%) |
|-------|---------------------|-----------------------|
| Italy | 61.6                | 11.7                  |
| EU    | 71.1                | 8.6                   |

Source: Eurostat (2017a)<sup>61</sup>.

In terms of **youth employment and unemployment**, 2016 saw an increase in the number of employed workers age 15-34 years, but this rise was very modest (+0.9% growth compared to 2015). Higher increases in employment rates have been seen amongst those aged 50 and above (+4.8% in 2016), which may reflect stricter criteria to access pensions.<sup>62</sup> Another useful indicator, especially for the state of the youth workforce, and also of critical importance for understanding the rise in platform working, is the rate of over-qualification

<sup>59</sup> Romei 2017; Ciccarelli 2016.

<sup>60</sup> ISTAT 2017: 146.

<sup>61</sup> Eurostat 2017a: Employment and Unemployment Labour Force Survey Data: Tables, available at: <http://ec.europa.eu/eurostat/web/lfs/data/main-tables>.

<sup>62</sup> ISTAT 2017: 148.

recorded among the Italian active population. One-quarter of the workforce is **working below their skills** and qualification level. These figures are greater for young workers (38.2 per cent), and foreign born workers (37.4 per cent).

It is worth noting **that the majority of employment growth** across EU Member States is concentrated **in the service sector, and these broad trends are mirrored in the Italian case**. Nearly two-thirds (65%) of the active population is employed in the service sector.<sup>63</sup> Overall in Italy 95 per cent of the increase in the number of employed individuals between 2015-16 has been in services, notably in transport and warehousing (logistics) and hotels and restaurants. A pattern of polarisation amongst professional occupations can be seen, with the growth of unskilled jobs alongside, at the opposite end of the spectrum, a rise in employment in highly qualified and technical professions.<sup>64</sup>

In terms of contractual and employment characteristics (see Table A6 below), 10.9 per cent of the directly employed workforce in Italy are on **fixed term contracts**, compared to the EU average of 12 per cent. Permanent employment had seen a massive contraction in Italy since 2008, although it has begun to rise again since 2015. There has also been a marked rise in “autonomi” or **self-employed workers**, with self-employment accounting for one in five jobs in Italy.<sup>65</sup> The growth of self-employment has been almost exclusively concentrated among those sectors of the economy that *do not have dependent workers*. This factor shows the growing relevance of individual self-employed and more broadly “hybrid areas of work” that are being considered “impossible to classify in terms of the classic dichotomy between salaried employment and self-employment” in the Italian context<sup>66</sup> (as well as in other EU countries).

**Table A 6: Part-time, temporary and self-employment in Italy, 2016**

|       | Part-time employment (%) | Temporary employment (%) | Self-employment (%) |
|-------|--------------------------|--------------------------|---------------------|
| Italy | 18.5                     | 10.9                     | 21                  |
| EU    | 19.5                     | 12.0                     | 14                  |

Source: Eurostat (2017a); Eurostat (2017b)<sup>67</sup>.

As a result of the Job Act labour market reform, on paper the growth of atypical employment is slowing down. Fixed term contract forms such as “**collaborative**” and **project-based employment** contracts (“co.co.co” employment) have diminished since 2008. **But there has also been a growth in the number of directly employed workers with fixed term contracts of less than 12 months’ duration**. Overall almost six out of ten “atypical workers” **have a contract of inferior duration than 12 months** in Italy, and 17 per cent have a one year fixed term contract. Among younger workers, one in four are still engaged either in a fixed term contract or a collaboration contract (**almost one in three women**).

The “permanency” of non-permanent jobs is also decreasing: according to the data from the IV quarterly, after 12 months the “permanency rate” of this kind of job decreases. For young workers on fixed-term contracts there is a higher probability of either entering into a standard employment relation but also falling back into unemployment.<sup>68</sup>The only form of employment

<sup>63</sup> Ibid.: 149.

<sup>64</sup> Goos and Manning 2007: 118-133, find similar trends in other EU economies.

<sup>65</sup> See Eurostat 2017b: 2.

<sup>66</sup> Armano and Murgia 2017 :48.

<sup>67</sup> 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, <http://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20170906-1>.

<sup>68</sup> ISTAT 2017: 152.

that has continuously grown since the crisis years has been **part- time employment** (called “partially standard employment”): overall 4.3 million individuals were in part-time work in 2016 (an increase of 29.3 per cent since 2008).

The persistence of a steady unemployment rate and precarious labour market conditions must be understood in terms of the **liberalisation of employment relations and weaker trade unions**. Since it was codified in the Worker Statute Employment Law in 1970 the Italian system of industrial relations has been based on a workplace-based type of union representation, with relatively solid legal rights but not covered by a clear organisational definition.<sup>69</sup> A peak level agreement of 1993 established a clearer structure of workplace representation called RSU (Rappresentanza Sindacale Unitaria di base or “grassroot union representation”) a collective body representing all workers in a productive unit, independently from their particular union membership. In essence the RSU workplace representation is union-based, with representatives enjoying significant legal powers, and comprises all union confederations present in that workplace. The main three union confederations (CGIL, CISL, and UIL, reflecting various political persuasions) cover the majority of union membership, although a variety of other autonomous and smaller trade unions exist and are growing in influence and popularity among the workforce in recent years. The three major confederations play a role in negotiating key legislation before it gets passed by the Parliamentary chambers, according to a principle of “flexible statutory regulations” and a model of “peak level tripartite bargaining”.<sup>70</sup>

Italy has a **collective bargaining coverage of about 80 per cent and a relatively high level of trade union density of 35 per cent, compared to many other EU countries**.<sup>71</sup>

National collective bargaining is still the primary form of employee voice. Italy is a country with a predominance of statutory collective bargaining although recent years have witnessed patterns of decentralisation of collective bargaining. National bargaining agreements are still predominant.<sup>72</sup> Despite this traditional pattern in Italian industrial relations it is worth noting that so-called “collective form of secondary bargaining” including workplace, enterprise, territorial or even individual bargaining, are spreading. Secondary bargaining is present in 15 per cent of firms whilst “integrative bargaining” (where the national level coexists with these other levels of bargaining even in the same enterprise) can be found in 29 per cent of firms.<sup>73</sup>

With regard to the representation of workers in the platform economy, **there are no formal unions of freelancers or self-employed workers**. New forms of self-organisations such as the workers’ cooperative and service providers ACTA and Smart Italia<sup>74</sup> have emerged as alternative forms of representation in traditionally self-employed labour sectors such as the performative arts and creative industry. Platform workers have been organising autonomously at least in the Foodora case, with some help from grass roots organisations.

## 3.2. The platform economy

### 3.2.1. Legal context

When it comes to the legal regulation of the labour market in Italy the relatively recent Labour Reform introduced under the Renzi government - the Jobs Act - represents without doubt one of the most critical reforms in the history of Italian employment relations and labour

<sup>69</sup> Gumbrell-McCormick and Hyman 2013: 23.

<sup>70</sup> Gumbrell-McCormick and Hyman 2013: 23.

<sup>71</sup> ETUI 2015: 1. See also Fulton 2015: 10.

<sup>72</sup> ISTAT 2017.

<sup>73</sup> Ibid.

<sup>74</sup> See footnote on p.110.

market regulation; although previous critical milestones include the Biagi Law and the Pacchetto Treu which first introduced forms of de-regulation of contractual arrangements, and dismissal rules by employers.

The Jobs Act, technically called Law 183, was issued in 2014 and has been recognised as marking a critical change in the country's system of employment relations. The key change has involved the completion of a process of reform started in the 1990s by the introduction of a new contract called "contratto a tutele crescenti", which literally means a "contract with (gradually) increasing protections". **This reduces the responsibility on the employers' side towards workers in cases of unfair dismissal.** Indeed, the euphemism of "gradually increasing protections" hides the de-regulative substance of the reform that de facto removes any obligation for employers to reinstate workers in cases of invalid dismissal. This replaces the old, open-ended contract of employment, making the use of the new "open-ended contract" more convenient than a fixed-term one for employers in terms of lighter contribution and stronger fiscal advantages, it takes away the possibility of referral to the courts in case of unfair dismissals. In other words, with the final abolition of the protection from unfair dismissal, historically protected under Article 8 of the Statute of Worker (already substantially diminished by the Fornero Reform), workers can now be arbitrarily fired without firms having to provide any economic rationale. Also, in the case of invalid dismissal, instead of **reinstatement** firms are now only required to provide some **reimbursement** to workers, based on the length of their employment tenure.<sup>75</sup> In other words, the expression "tutele crescenti" (gradually growing protections) is misleading, because it does not refer to worker protection *per se* but to the ways of calculating compensation for unfair dismissal: the amount of indemnity is indeed proportional to the seniority of the worker, which is the length of "service" at the point of dismissal.<sup>76</sup> The key aspect of this new contract type is that even though it is called "permanent" it, de facto, deprives workers of the benefits of a traditional open-ended contract. The Act also makes it easier for employers to engage temporary workers. Recent analysis of the effects of the Jobs Act on the Italian labour market<sup>77</sup> has demonstrated that there has been no substantial increase in employment; temporary jobs have increased more than the open-ended ones; and part-time employment has also risen. As the authors explain:

"the use of temporary contracts is facilitated by the elimination of previous restrictions on their adoption - before the Jobs Act implementation, firms were allowed up to a maximum of 20% temporary over the total amount of contracts. The crucial change regards the new open-ended contract, the 'contratto a tutele crescenti' [CTC], designed to become the prevalent contract in the Italian labour market. The latter, in fact, is only nominally permanent since it allows for extremely cheap layoffs depriving workers of the reinstatement right. Moreover, just before the introduction of the new contract, a substantial monetary incentive - lasting three years and taking the form of a reduction in firms' social contributions burden per employee - has been provided to firms hiring under a [CTC] permanent contract or transforming other contracts into [CTC] permanent ones".<sup>78</sup>

Perhaps a counter-trend has been represented by a recent labour law reform: the "Statuto del lavoro autonomo" or self-employment statute. In May 2017, the Parliament chambers passed a **new law** ("Provvedimento legislativo organico sul lavoro autonomo professionale") regulating professional self-employment in Italy. As highlighted by Acta (one of the

<sup>75</sup> See Fana, et al. 2005: 15.

<sup>76</sup> Wikilabour.it 2017. Wikilabour.it Dictionary of workers' rights. Available at [http://www.wikilabour.it/tutele\\_crescenti.ashx](http://www.wikilabour.it/tutele_crescenti.ashx).

<sup>77</sup> Fana et al. 2015: 2.

<sup>78</sup> Ibid.: 2.



organisations of freelancers interviewed for this research), this is the first time that autonomous workers and freelancers have been recognised as workers, thus establishing some new rights and protections for this category. The positive measures are mainly in **the field of welfare rights** (improved maternity and parental rights; sickness coverage also for tumours) as well as fiscal benefits when it come to new rights to reimbursement and/or **deductions from taxation** in relation to travel and other maintenance expenses, and for covering for work equipment, as well as rights to lifelong learning and training.

The most important change introduced by the new Self-Employment Statute is cultural, with Article 1 defining the recipients of the new policy: **for the first time this comprehensive regulation covers the whole of the autonomous professional world of work, notably those outside the professional bodies (ordini) or guilds**. This represents a step away from a binary approach to self-employment as originally regulated under the “Gestione separata dell INPS” (the “Special fund for self-employed workers”) first introduced in 1995. This had created a neat distinction between fully independent professionals and other self-employed workers. The latter had been grouped under the “para-subordinati” label, and were forced to pay much higher contributions with the aim of discouraging individuals from taking part in this special INSP fund. In this regard, the association of freelancers ACTA argues that the new statute represents a step forward from the disadvantaged position of this category of economically dependent self-employed work.

These types of self-employment still **differ in terms of the amount of social protections that they receive**. Indeed, one of the criticisms developed towards the new statute of self-employment was that it was a “missed opportunity” (for a true reform). Sinistra Italiana, a new political party, has highlighted the limitations of the scope of the new law. On the one hand, there are more protections for those without a subordinate relationship with a client or the obligation to provide the service (*lavoro autonomo*), like designers, freelancers in the creative industry, education and other professionals. On the other hand, other categories (like the “parasubordinati” with special INPS fund), remain uncovered by these protections (beside some elements linked to maternity) **as well as all workers from the “platform economy” and mini jobs (“lavoretti”), who also remain unprotected under the new law**.

### 3.2.2. Development of the platform economy

In terms of the rise and growth of the platform economy, broad trends are not easy to track in the Italian context, but available data suggests that it is relatively under-developed compared to other EU countries. An interview with an Italian journalist, specialising in the platform economy revealed that while the high-profile case of Foodora (the food delivery company organising riders through an app similarly to Deliveroo) has been an exceptional one, and the development of the low-end platform work is still in its infancy, they do anticipate growth over the next decade. The challenges emerging from the platform economy in terms of social protection for workers need to be contextualised against the background of wider regulatory (or de-regulatory) patterns of the Italian labour market, namely the de-structuring of the standard employment relationship (“relazione di lavoro eterodiretta” e “lavoro subordinato”), that is direct or “dependent employment” as opposed to the growth of indirect or self-employment (autonomous employment according to the Italian terminology).

**The Italian case is also one where there is a clear distinction made between the sharing and collaborative economy on the one hand and the “gig” economy on the other**. The economic sectors where there is actually a sharing of goods and services are mainly in transportation and personal services. They need to be distinguished from the “on demand economy” of Foodora or Uber. The latter only use the technology to organise work, there is nothing collaborative about it apart from the use of the App, but the bottom line is

the exploitation of casualised labour. Yet the sharing economy properly understood is only marginally developed in Italy.<sup>79</sup>

One of the first mappings of sharing platforms highlights their prominence in **carpooling, ridesharing, Car Sharing peer to peer, and parcel delivery**. *Childcare* and dog sitter services and time banks also exist.<sup>80</sup> There are few real examples of sharing work, and these have tended to be found in the tourism sector of some regions of Italy. Anecdotal evidence, cited by respondents in this study, refer to few very short term attempts of start-ups in large Italian cities like Milan and Turin (where the lifespan of these new, platform firms is quite short, between 3 weeks and 3 months), while in the Centre and South of Italy some examples of investment of sharing economy type start-ups in the ecological/sustainable tourism sectors have started to emerge. These can be interpreted as alternative non-monopoly types of “Airbnb”, but are typically linked with the attempt to valorise the resource of a locality.<sup>81</sup>

Within this relatively small-scale sharing economy, **it is also important to note that these very new forms of entrepreneurship may actually emerge out of the same social and employment insecurity, indebtedness and under-employment conditions that underpin the Italian economy**. An illustration of this point is that the sharing economy tends to be small scale and dependent on limited personal savings and funds, rather than venture capital.

In terms of the market patterns of the sharing economy one of the interviewees for this study made the point that after the year of the crisis 2007-8, new smaller platforms emerged in certain sectors previously dominated by monopoly providers. BlaBlaCar initially impeded the emergence of other platforms, while these are now emerging and finding their niche market (*Icarry* is specialising in transporting items and parcel rather than people; *auting* is about car sharing peer to peer). Finally, in terms of the business model of the platform economy in the Italian case an interesting parallel can be drawn with the world of co-operatives, which has been traditionally strong in the Italian context.

Yet, despite the relatively modest presence of the platform economy per se, the debate in Italy is relatively advanced when it comes to **social protections**, and demand for alternative forms of social assistance and security by the variety of social movements in civil society. A “Charter of Rights” was advanced by the CGIL and it is recognised by social movement actors as a step forward in terms of the official unions finally recognising that there are precarious forms of self-employment that need social security. However, unions remain attached to advocating contributory insurance types of social security. In this sense, there is a “stubbornness” even amongst the most enlightened unions such as the CGIL, that, while acknowledging the need to embrace technological developments and the new opportunities that this might bring to workers, young and old, to understand the need for alternative forms of protections such as universal basic income or to consider alternatives to the usual contributory type of social protections. Traditional representative institutions of worker representation do not understand the ontological shift in the nature of the workforce, and rather remain attached to a “labourist model” of permanent employment that does not exist anymore, at least in Italy.

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<sup>79</sup> For an overview of the sharing economy, proper, in Italy, see: Pais and Mainieri 2015.

<sup>80</sup> Ciccarelli 2016.

<sup>81</sup> From one interview conducted for this study, we found that the same city Matera is also the site of an experiment in the sharing economy “Casa Natural in Matera” where coworking and social innovation combine to regenerate an area of the local territory (alternative hospitality and tourism using the Gnammo platform).

## 4. GERMANY

The impact of the platform economy on Germany is the subject of much interest and debate. High proportions of Germans have connectivity<sup>82</sup> and basic internet skills.<sup>83</sup> Yet, there are acute skills shortages in the area of ICT, suggesting that Germany is not fully prepared for the effects of digitalisation and the rise of the platform economy.<sup>84</sup> The potential impact of digitalisation and platform working is keenly debated. According to a study by the Federal Ministry for Labour and Social Affairs (BMAS), 12 per cent of jobs in Germany have a high probability of displacement due to automation, while 42 per cent of employees in Germany might be affected (in terms of the activities they undertake in their jobs by automation).<sup>85</sup> However, the same study concludes that overall, digitalisation may have a positive effect on jobs.<sup>86</sup> Other studies highlight **the potential for the positive co-existence of new sharing and more traditional models of the economy, and even predict a positive outcome of the sharing economy for the establishment of new businesses.**<sup>87</sup>

In Germany, the platform economy is relatively well established, with the most widely used platforms for cloudworking or crowdworking being Upwork, Freelancer and Clickworker. Clickworker is the biggest German platform with 700, 000 members. Among on-line platforms the most well-known are Airbnb, Mytaxi, Helping, Bookatiger, and MyHammer. All of these, in one way or another, serve individuals and their needs for individual transportation, and household services.

### 4.1. Labour market trends

The employment rate in Germany is 78.6 per cent, and the unemployment rate is at its lowest level since before 2005, well below the EU average. The German economy recovered more rapidly than many EU Member States after the recession, and job growth since 2011 has been strong.

**Table A 7: Employment and Unemployment rates in Germany, 2016**

|         | Employment Rate (%) | Unemployment rate (%) |
|---------|---------------------|-----------------------|
| Germany | 78.6                | 4.1                   |
| EU      | 71.1                | 8.6                   |

Source: Eurostat 2017a<sup>88</sup>.

However, out of the 44 million people in employment only 75 per cent pay social insurance contributions. This is largely explained by the structure of the labour market.

As Table A8 below reveals, one quarter of workers are in part-time employment, 12 per cent in temporary employment and 9 per cent in self-employment.<sup>89</sup> Many part-time, temporary and self-employment jobs are not subject to social insurance contributions.

<sup>82</sup> Akamai 2016.

<sup>83</sup> Buhr et al. 2016.

<sup>84</sup> BA 2015.

<sup>85</sup> BMAS 2015a, 2015b.

<sup>86</sup> Ibid.

<sup>87</sup> Institute of German Economy 2016.

<sup>88</sup> Eurostat 2017a: Employment and Unemployment Labour Force Survey Data: Tables, available at: <http://ec.europa.eu/eurostat/web/lfs/data/main-tables>.

<sup>89</sup> Federal Statistics Office: Yearbook 2016.

**Table A 8: Part-time, temporary and self-employment in Germany, 2016**

|         | Part-time employment (%) | Temporary employment (%) | Self-employment (%) |
|---------|--------------------------|--------------------------|---------------------|
| Germany | 26.7                     | 11.9                     | 9                   |
| EU      | 19.5                     | 12.0                     | 14                  |

**Source:** Eurostat (2017a); Eurostat (2017b)<sup>90</sup>

The share of permanent employment has decreased heavily from 70 per cent of the workforce in 1985 to 46 per cent of the workforce in 2015. **Part-time work** has increased from 13 per cent in 1990, up to 22.4 per cent in 2015 which is much higher than the average in the European Union. The share of involuntary part-time employment rose to over one in five of those working part-time during the recession, but has fallen to one in six in 2015.<sup>91</sup>

Looking in more detail at **temporary employment**, the majority of these workers (8.4% of the employed workforce in total) are on fixed-term contracts with a single employer (others are on contracts with temporary work agencies, or on seasonal or casual contracts). Half of those working on fixed term contracts would like a permanent job. The total share of agency work in employment is 2.5 per cent, concentrated amongst younger workers and those in elementary occupations.<sup>92</sup> **Self-employment** has also increased in Germany with 9 per cent of the workforce in this form of work. Nearly six per cent (5.9%) of the workforce are solo-self-employed.<sup>93</sup> Self-employed workers in Germany have higher educational qualifications on average than the workforce as a whole.<sup>94</sup>

**In terms of employment security, protection against dismissals is high in Germany, compared to the EU as a whole.** Union density has declined in recent years, with only 17.7 per cent of workers now members of a union, compared to 31.1 per cent in 1990 at the time of reunification. Collective bargaining coverage remains high, though, at 65 per cent in West Germany and at 51 per cent in East Germany. In 2015, 41 per cent of employees in companies with more than 5 workers in West Germany were working in a company with a works council, compared to 36 per cent in East Germany.<sup>95</sup>

## 4.2. The platform economy

### 4.2.1. Legal context

A key debate in Germany has centred on **whether platform workers are “solo-self-employed”, “bogus” self-employed, or employees, and this mirrors a broader debate and discussion over these terms in the economy as a whole.** Traditionally in Germany self-employed workers were highly qualified professionals like lawyers, accountants or medical doctors with a relatively secure income. Digitalisation and the rise of the platform economy has led to increases in solo-self-employment in other business areas. In these areas, self-employment tends to generate rather small, insecure, and often unsustainable incomes. These self-employed workers often operate without any business assets. **Self-employed workers in Germany are increasingly churning through jobs, with their**

<sup>90</sup> 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, <http://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20170906-1>.

<sup>91</sup> Eurostat 2017a; Eurostat 2017b; OECD 2016; Federal Statistics Office: Statistical Yearbook 2016.

<sup>92</sup> Eurostat 2015.

<sup>93</sup> Ibid.

<sup>94</sup> Expert interview.

<sup>95</sup> Federal Statistics Office 2017.

**work resembling wage labour.** It has been argued that solo self-employment is substituting for dependent employment.<sup>96</sup>

There has been a long debate about bogus self-employment in Germany and many attempts to curtail it through revisions of the Code of Social Law. The most recent and radical attempt to restrict bogus self-employment can be seen in German Civil Code 611a, a law which has come into effect on 1 April 2017, and which distinguishes the employment contract from a service contract.

Section 611 defines the object of a service contract as a “promised service for an agreed remuneration”. The new section defines an employment contract as an obligation to provide a service for somebody else ***in personal dependence, being subject to the orders of the customer of the service***. The orders can dictate the content, the processing, the timing and the location of the service/activity. In other words, a person who cannot plan their work and their working time is an employee. **Autonomy has become the crucial distinction** between wage labour and self-employment. The aim of the law is to prevent bogus self-employment. Bogus self-employed workers could now claim for their right to be an employee instead of self-employed.

Germany also identifies “employee-like persons” in law. These are persons who are self-employed but who are economically dependent on one client. With respect to social security, employee-like persons are considered to be self-employed persons. However, by way of exception, specific provision is made to include these individuals in the state pension scheme and the statutory accident insurance scheme.<sup>97</sup> Those employee-like persons often are freelancers who are economically dependent and usually work exclusively for one client, or that more than 50 per cent (30 per cent in the media sector) of their income is paid by one client.<sup>98</sup> **However under current German rules, platform workers are not considered employees or employee-like persons, they are classified as self-employed persons.** In this case, platform workers have significantly less social protection than employees or employee-like persons.<sup>99</sup>

In the German context, there are other laws that might become relevant for the regulation of the platform economy, laws that could be applied by way of analogy to platform workers. Consumer protection law deals with the general terms and conditions of platforms.<sup>100</sup> Such provisions are laid down in sections 305 to 310 of the Civil Code. Klebe and Heuschmid,<sup>101</sup> in agreement with Däubler,<sup>102</sup> believe that many of the terms and conditions are contrary to German consumer protection law and that legal provisions could be used to challenge some of the wrongful terms and conditions of platforms.

The **Homeworking Act (Heimarbeitsgesetz)** offers another potential route for extending protection to platform workers. As a general rule, the provisions of labour law do not apply to homeworkers. However, there are some important exemptions and homeworkers could be entitled to some of the protection specified in the Works Constitution Act, Statutory Sick Pay Act (Entgeltfortzahlungsgesetz), Parental Leave Act (Elternzeitgesetz), Paid Leave Act (Urlaubsgesetz), Safety and Health at Work Act (Arbeitsschutzgesetz) and the Dismissal Protection Act (Kündigungsschutzgesetz). Moreover, section 17 of the Homeworking Act makes special provision for collective bargaining. For the purposes of social security,

<sup>96</sup> Brenke and Beznoska 2016.

<sup>97</sup> Klebe and Heuschmid 2017.

<sup>98</sup> Vogel and Dribbusch 2009.

<sup>99</sup> Klebe and Heuschmid 2017.

<sup>100</sup> Ibid.

<sup>101</sup> Klebe and Heuschmid 2017.

<sup>102</sup> Däubler 2015.

homeworkers in Germany are generally protected (through section 12(2) of the Fourth Book of the Social Security Code (Sozialgesetzbuch IV)).<sup>103</sup>

Finally, collective bargaining law may provide some means of protecting platform economy workers, although currently this is rare. **In principle, antitrust law (Kartellrecht) prohibits self-employed workers without employees - as well as companies - from seeking arrangements on prices.** German legislation specifically authorises trade unions to bargain for employee-like persons (section 12a of the Collective Agreements Act (Tarifvertragsgesetz)).

#### 4.2.2. Development of the platform economy

**The size of the platform economy in Germany remains rather small.** There is no clear data available, so only estimations are possible, from ad hoc surveys. These surveys all come to a similar conclusion, that platform work is only a marginal phenomenon in Germany at the moment, involving up to 3 per cent of the workforce.<sup>104</sup> A survey conducted in 2016 among platform workers suggests the following characteristics: a crowdworker in Germany is active on average on two platforms, for on average 15 months (8 months in case of microtask platforms), 50 per cent have higher education, and the majority are single.<sup>105</sup> As is the case in many of the case study countries looked at in our study, most people appear to use platform work as an auxiliary/add-on income. However, out of those working on platforms, one third do not have health insurance, and nearly half (47 per cent) do not pay into a pension scheme.

The rather limited size of the platform economy might be explained by the ambivalence of businesses towards crowdwork. A representative survey among 1,500 companies in Germany conducted by BITKOM, the business association in the ICT sector, reveals that only 26 per cent of managers were aware of crowdsourcing.<sup>106</sup> A representative survey conducted by BITKOM in 2017 among 503 companies with more than 20 employees reveals that 62 per cent of the top managers had never heard of platforms or the platform economy before. Only 14 per cent of those who have heard about platforms actually own a platform themselves.<sup>107</sup> So, Germany seems to be some way behind other countries in generating revenues out of platforms.

However, although the phenomenon seems rather small in size at the moment, there are a number of activities occurring at the policy level. **The Ministry of Labour and Social Affairs** set up a special group for the platform economy, and commissioned a representative survey of 20,000 individuals who will be asked about their activities in the platform economy. On that basis, they will then decide whether to include it into longitudinal studies of SOEP<sup>108</sup> or Mikrosensus,<sup>109</sup> key surveys in Germany. Until then, the Ministry takes the view that since most platform workers are undertaking this work as a second job, they receive protection through a primary job.

However, the Ministry have also launched a wide ranging public consultation on the future of work. In 2015, The Ministry published a Green Paper with questions about the extent to which

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<sup>103</sup> See Klebe and Heuschmid 2017.

<sup>104</sup> See for example Huws et al. 2016.

<sup>105</sup> Leinemeister et al. 2016.

<sup>106</sup> Bitkom 2016.

<sup>107</sup> Bitkom 2017.

<sup>108</sup> SOEP 2017. The German Socio-Economic Panel (SOEP) is a wide-ranging representative longitudinal study of private households, located at the German Institute for Economic Research, DIW Berlin. See <https://www.diw.de/en/soep>.

<sup>109</sup> Mikrosensus 2017. Mikrosensus is a representative study of private households, carried out by the Federal Statistics Office. See <https://www.destatis.de/EN/Homepage.html>.

digital transformation is positively or negatively affecting work and setting out important areas for action and key social issues concerning the world of work. This consultation and engagement has resulted in the publication of a **White Paper, called Work 4.0**. Through it, the Ministry want to capture and define the broader public debate and provide impetus. Ideas for further policy reforms include:

- the right for continuing training and education, an increase in training for employees and a substitution of unemployment insurance toward an employment insurance that would allow to bolster employability of workers;
- the right for part time work. Employees should have the legal right to choose their working time suitable to their life circumstances;
- to strengthen the rights of works councils to increase codetermination rights for digital work;
- to include the self-employed into the statutory pension scheme;
- to enlarge the Home Work Act to crowd workers;
- for social protection, they propose a personal employment account which fits each young person with a capital stock that could be used for qualification, sabbaticals, or as a subsidy for a start-up. Employees might have the chance to put money into that account as well so that it becomes sustainable over the life course.<sup>110</sup>

While business associations are relatively positive about the new possibilities platform work enables, trade unions are concerned about the degradation of working conditions.<sup>111</sup> As a first step to counter this, they have opened up themselves to self-employed workers. **Ver.di** organises 30,000 self-employed workers already, whilst **IG Metall** has given equal access to self-employed workers with effect from 1 April 2017. The **IG Metall FairCrowdWork Watch** project also offers counselling for platform workers, research on the topic, and policy making.

In 2017, the first **Code of Conduct** for platform working was published in Germany. It goes back to an initiative of the German crowdsourcing platform Testbird. Seven other big platforms have signed the Code already, among them Clickworker, Crowd Guru, Streetspotr, Appjob, 24insights, Bugfinders and Content.de. They commit themselves to legal compliance, transparency and fair payment, as well as supplying training and eLearning for service providers.<sup>112</sup>

The German case provides a number of starting points for extending social protection. **The problem of insufficient protection of self-employed is not a new phenomenon but the question has gained increased public attention since the introduction of platform work.** In particular unions are worried that the platform economy may lead to more outsourcing, replacing rather well secured standard employment with less secure self-employment. A number of options have been discussed in the German case. First, the collective bargaining options for employee-like persons (**section 12a of the Collective Agreements Act**) could be extended to platform workers. This would allow them to negotiate collectively for fair pay and working conditions. This approach is seen by unions as a first priority, since it will enable the self-employed to participate in social security systems like health care and pension.

Secondly, there have been attempts to improve **access to existing social security systems** for self-employed workers, by changing the structure of contributions and making

<sup>110</sup> See Eurofound 2017b: 1.

<sup>111</sup> Benner 2014.

<sup>112</sup> Crowdsourcing Code of Conduct 2017.

provision compulsory (especially for old age pension). For health care the minimum income threshold could be dissolved so that no minimum contribution is expected. Rather, members would pay a certain percentage of their actual income. Furthermore, taking into consideration the increased number of shifts between employment, self-employment and unemployment, there are more fundamental ideas debated to replace the current social security with a system that is more encompassing and which provides greater security over the life course.

Thirdly, unions favour a defined **minimum wage for platform workers**, oriented to the minimum wage for wage labour. As a potential avenue for this they consider the **Homeworking Act** being promising which would allow employer associations and trade unions to define activity and skill profiles and define an appropriate price/pay for it. **Basic income** is not considered to be a good option of social protection as it would lower the level of protection and contribute to the increase of low paid precarious jobs.<sup>113</sup> Unions see basic income as a neoliberal redistribution mechanism that disadvantages those who are really in need of support; the unions favour, instead, minimum wages.<sup>114</sup>

**Legislation** might also be amended to increase social protection for platform workers. First, at a national level, **co-determination rights** could be extended. At the moment, works councils do not have information rights about zero-hour contract workers, individual subcontractors, or Crowdworkers in their companies. Information provision as well as co-determination rights should be extended to include these new types of service providers and workers. Furthermore, trade unions need access to the contact details of these people to be able to inform them about their activities and to recruit them as members. Beyond this, unions request **regulation by competition** as the huge concentration of platforms leads to monopoly power. In particular, in cases where **bogus self-employment** is in place, unions strive for transforming service contracts into employment contracts, as in cases like Deliveroo, or as happened with Bookatiger.

Last but not least, **platforms** themselves need to be take responsibility for their actions. This requires greater control of platforms and if necessary, sanctions, if labour law is violated. Minimum commercial standards, clearly defined in the general terms and conditions, should be applied to platforms operating in Germany. Platforms should also be held accountable for being employers not only mediators, paying into the social security systems, via taxes or into security funds. The experience with the **German Artists' Social Welfare Fund** (Künstlersozialkasse) shows a potential pathway for this to happen. The Artists' Social Welfare Fund is a social security fund for artists and freelancers in the media. It consists of contributions from artists themselves, but they pay lower contributions than alternative private or public funds would claim. Clients or customers have to pay in a certain percentage of the price of the artefact or the honorarium for the service into the social security fund. Platforms should also be forced to become more transparent in terms of how they operate, in terms of their algorithms and in terms of the rates paid for services.

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<sup>113</sup> Bsirske 2016.

<sup>114</sup> Ibid.



## 5. SPAIN

Spain has been severely affected by the economic crisis since 2008. This has resulted in high rates of unemployment and the labour market continues to be one of the most serious structural problems faced by the country. Although GDP and macroeconomic measures have begun to improve since 2014, this recovery has not been paralleled by improvements in the labour market statistics. During the crisis, Spain experienced one of the largest falls of employment in the European Union. Unemployment remains high at 18 per cent.<sup>115</sup> Spain is somewhat distinctive in the EU in terms of its large shadow economy which makes up a significant proportion of GDP and also the labour market and this shadow economy expanded alongside rising unemployment.

In parallel to the economic crisis, the political scene remains similarly unstable, with Spaniards having voted in two inconclusive elections over the past two years. The traditional social democratic party, PSOE, has lost a lot of support to the new left party, Podemos, and the incumbent minority conservative party has struggled to form a government. In addition, strong secessionist movements are raising the spectre of secession in regional areas; the disputed independence referendum in Catalunya, held in October 2017, being perhaps the clearest example. Platform economy working is still in its infancy in Spain, and much of it remains hidden at present.

### 5.1. Labour market trends

Significant labour reforms took place in Spain in 2010 and 2012. These have included: measures to give greater priority to firm-level collective bargaining; to adopt internal flexibility; to reduce payments for unfair dismissal and dismissal of permanent workers; and to discourage the consecutive use of temporary contracts.

**Table A 9: Employment and Unemployment rates in Spain, 2016**

|       | Employment Rate (%) | Unemployment rate (%) |
|-------|---------------------|-----------------------|
| Spain | 63.9                | 19.6                  |
| EU    | 71.1                | 8.6                   |

**Source:** Eurostat 2017a<sup>116</sup>.

Following the labour reforms, there appears to have been somewhat of a recovery in terms of employment and unemployment over the past few years. Despite this, the correlation between these two phenomena remains contested.<sup>117</sup> Both employment and long term unemployment in Spain are currently at higher rates than OECD averages.<sup>118</sup> As Table A9 shows, the employment rate in Spain stands at 63.9 per cent, the lowest since 2002 and one of the lowest in Europe.<sup>119</sup> Unemployment hit its highest in 2013 at nearly 27 per cent, before beginning to fall, although it still has not regained its pre-crisis rate of 11.8 per cent.<sup>120</sup> In 2016, the rate of unemployment was 19.6 per cent, one of the highest in the EU.

<sup>115</sup> Ministro de Empleo y Seguridad Social 2017.

<sup>116</sup> Eurostat 2017a: Employment and Unemployment Labour Force Survey Data: Tables, available at: <http://ec.europa.eu/eurostat/web/lfs/data/main-tables>.

<sup>117</sup> Myant and Horwitz 2015.

<sup>118</sup> OECD 2016.

<sup>119</sup> Eurofound 2017c.

<sup>120</sup> El Pais 2016; Bacaria 2015.

The labour reforms have had the effect of “wage moderation”,<sup>121</sup> which has impacted on workers’ living standards. Real wages in the country have dropped since 2008, although have begun to climb again in the past few years. The government’s Index of Labour Prices published by the National Institute of Statistics (INE) demonstrates a fall in the cost of labour between 2008 and 2014, by 0.7 per cent. In terms of a wage floor, the Spanish minimum wage, which is applicable to all employees, regardless of contractual status, is 707.60 EUR per month or EUR 23.59 a day. **More than 5 million people in Spain who are in employment currently work at the minimum wage.**

**The labour market situation in Spain has improved over the past two years.** GDP growth picked up in 2014 and growth stood at 2.3 per cent in 2015 which resulted in significant job creation. Despite this improvement, a number of weaknesses remain. Employment recovery has lagged behind any GDP recovery in Spain. Spain’s economy grew by 1.4 per cent in 2014 and is predicted to recover to the pre-crisis level only in 2019. Meanwhile, employment is not predicted to recover to pre-crisis levels until 2027.<sup>122</sup> Additionally, in terms of youth employment, 12.9 per cent of young people in Spain are not in employment, education or training. Structural reforms following the crisis have been interpreted by some authors as having worsened labour market access for the most vulnerable and specifically for young people.<sup>123</sup> As of 2015 only 18.7 per cent of 15-24 year olds were in employment.<sup>124</sup> **This has led some commentators to argue that Spain has experienced the greatest damage in labour market access out of all of the EU Member States**, with Spain scoring second to last in the “Labour Market Access” dimension of the Social Justice Index 2015.<sup>125</sup> There is also a large proportion of the labour force in Spain with less secure employment.<sup>126</sup>

The shadow economy makes up a significant proportion of Spain’s labour market, accounting for almost a quarter of GDP. This proportion has been rising through the economic crisis and is twice the size of other EU countries such as France or the UK.<sup>127</sup>

**Table A 10: Part-time, temporary and self-employment in Spain, 2016**

|       | Part-time employment (%) | Temporary employment (%) | Self-employment (%) |
|-------|--------------------------|--------------------------|---------------------|
| Spain | 16.1                     | 21.8                     | 16                  |
| EU    | 19.5                     | 12.0                     | 14                  |

Source: Eurostat 2017a; Eurostat 2017b<sup>128</sup>

**Temporary employment** has always made up a large proportion of the Spanish labour market, as, the rate of temporary employment in Spain has been almost three times the European average for over two decades.<sup>129</sup> As Table A10 shows, one fifth of all employment

<sup>121</sup> OECD 2014.

<sup>122</sup> Myant and Horwitz 2015.

<sup>123</sup> Bacaria et al. 2015.

<sup>124</sup> OECD 2015.

<sup>125</sup> Bacaria et al. 2015.

<sup>126</sup> Myant and Horwitz 2015.

<sup>127</sup> Mount 2014.

<sup>128</sup> 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, <http://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20170906-1>.

<sup>129</sup> Polavieja 2003.

is temporary and has developed to this degree as a result of a flexibilisation strategy introduced in the 1980s to reduce unemployment.<sup>130</sup>

**Self-employment** is gaining prominence in the Spanish labour market and currently makes up 16 per cent of the labour force. Self-employment appears to be largely characterised by single workers with no employees. Approximately two-thirds of self-employed workers report that they would rather be full time employees and large numbers suggest that they became self-employed “out of necessity” suggesting a lack of viable alternatives in the labour market.<sup>131</sup> Part-time employment is well established in Spain, but has increased since the global recession of 2010-12, perhaps reflecting more limited job opportunities and a rise in under-employment. Key issues cited by the self-employed appear to be high administrative charges, high tax rates and the black economy. The federation of Self-Employed Workers of Spain (ATA) has requested a cut in administrative charges and taxes for the self-employed.

Trade unions are recognised in Spain under the 1978 Constitution, following the end of the military junta under Franco. Trade union density in Spain is reasonably stable and currently stands at 16.9 per cent. Following the labour market reforms of 2010 and 2012, collective bargaining coverage fell from 59 per cent in 2008 to 41 per cent in 2013.<sup>132</sup>

Trade union elections can take place only in workplaces with six or more employees. This limitation means that the vast majority (78.7 per cent) of companies in Spain cannot hold union elections.<sup>133</sup> Larger companies which can have such elections employ the majority of workers, however, meaning that 86.6 per cent can potentially be represented by a union. The two largest unions are General Workers’ Union (UGT) and the Confederation of Workers’ Commissions (CCOO), who represent the vast proportion of workers.

Union activists and workers participating in strikes are facing increasing criminalisation and many have been prosecuted for strike related activities. Historically, since the end of the rule of Franco, incidents in labour disputes “have generally been dealt with as minor offences or misdemeanours”.<sup>134</sup> Since 2010, however, there has been an increasing use of parts of the penal code which allows for long prison sentences for workers participating in labour disputes. There is little evidence of the existing unions engaging with workers in the collaborative economy and they instead have argued for more formal contracts in the gig economy to reflect traditional employment relations.

## 5.2. The platform economy

### 5.2.1. Legal context

Reforms to the labour market since the economic recession have had a significant impact on the Spanish labour market, and, through their impact on those who are self-employed or in atypical work, have impacted on those in platform work. **The 2012 Law on Urgent Measures for Reforming the Labour Market (Law 3/2012) intensified labour market segmentation by creating more space for fixed term, agency and marginal part-time work.**<sup>135</sup> The reforms promoted greater flexibility in the labour market, which has resulted in a larger number of the Spanish workforce falling outside the main sources of social protection – the General Scheme of Social Security. However, as Rodriguez Cabrero et al. (2017) point out, the Self-Employed Work Statute of 2007, and the 2013 reform of social

<sup>130</sup> Myant and Horowitz 2015.

<sup>131</sup> Eurofound 2017c.

<sup>132</sup> Myant and Horowitz 2015.

<sup>133</sup> Eurofound 2016.

<sup>134</sup> Fuster 2014.

<sup>135</sup> Schiek et al. 2015: 61.

protection for part-time workers regarding pensions, have “increased convergence between the Special Scheme for Self-Employed Workers (RETA) and the General Scheme of Social Security and improved the social protection of the self-employed”.<sup>136</sup>

This is not to suggest that the self-employed receive equal levels of social protection to directly employed workers. As Rodriguez Cabrero et al. (2017) point out, **income instability and low average income for the self-employed lead to differences in social protection in practice**, with self-employed workers often missing out on unemployment insurance protection and pension coverage.<sup>137</sup> They argue that insurance contribution bases need to be more realistic, set at a lower level, in line with the real income of self-employed workers. Furthermore, they argue that since the vast majority of self-employed workers choose the minimum contribution base (in order to pay lower contributions), any change to the system requires an agreement or pact between unions, government and business organisations.<sup>138</sup>

### 5.2.2. Development of the platform economy

The platform economy in Spain is still relatively underdeveloped. Indeed, much of the platform economy still exists as part of the hidden or shadow economy in Spain.<sup>139</sup> There is a significant shadow economy in Spain, and alongside this, there is some speculation that workers may not wish to engage with platforms, as they would make them visible and formal. For example, migrants offering delivery services outside places such as Ikea exist in parallel to the platform economy. A new *Comisión nacional de los mercados y la competencia*, or CNMC (National Commission for Markets and Competition) has been recently established, which is a merger of different regulatory bodies in Spain. Both Barcelona and Madrid are attempting to position themselves as good places for tech start-ups and there are a large number of “accelerators” – Wayra; Startupbootcamp; Seedrocket; Conector. In addition, Barcelona recently hosted “OuiShare fest”, a sharing economy festival, meaning that platforms are fairly well networked in the city.

There have been three major legal cases brought against different platforms by various social groups, including Uber, BlaBlaCar, Cabify and Airbnb. Uber was banned in Spain in December 2014. The Madrid Taxi Association has protested against Uber, and Barcelona’s main taxi service has complained that Uber does not have to abide by existing regulations, which bring costs such as licensing. The case went to the CJEU, which ruled that Uber’s activities did not abide by existing laws and represented unfair competition.<sup>140</sup> In March 2016, Uber returned to business in Spain, with its UberX service, which used only professional licensed drivers, and which targeted only the private hire sector in Madrid (only 10% of taxis in the capital city).<sup>141</sup>

*Confibus*, the association of bus drivers, took BlaBlaCar to court citing unfair competition and the decline in the use of bus services. With Cabify, it was the *Federación Madrileña del Taxi* which presented an official complaint in front of a judge. Both Cabify and BlaBlaCar have been enabled to continue operating until a more formal decision is made. Finally, Airbnb have been fined €30,000 in Barcelona for breaking tourist laws. The platform company has responded by commissioning and publishing data which claims that Airbnb puts 175 million

<sup>136</sup> Rodriguez Cabrero et al. 2017: 8.

<sup>137</sup> Rodriguez Cabrero et al. 2017: 9.

<sup>138</sup> Ibid.: 5.

<sup>139</sup> Vitaud 2015 <https://medium.com/switch-collective/the-gig-economy-in-spain-from-the-shadow-to-the-light-829e9d9a48cd>.

<sup>140</sup> Case C-434/15 *Asociación Profesional Elite Taxi v Uber Systems Spain SL* ECLI:EU:C:2017:364.

<sup>141</sup> Vega Paul 2016: 1.

euros into Barcelona's economy and that 75 per cent of people renting out their flats through the service have incomes below the national average.

## 6. BULGARIA

Bulgaria is a country with a highly qualified young workforce and has become a key destination for outsourcing in the IT sector in the EU. Given the Bulgarian labour market and average pay levels it is unsurprising to find that Bulgarians participate very actively in the platform economy and that platforms are growing rapidly, albeit from a relatively low base. They have been most active in the area of Upwork. Unionisation is low, almost zero in the ICT sector, and due to Socialist legacies interest in labour representation is very low. Bulgaria is thus an environment where platform economy working is likely to rise very quickly, even though robust data on the phenomenon remains hard to find.

### 6.1. Labour market trends

The **employment rate** in Bulgaria was 67.7 per cent in 2016 (Table A11), a 2 per cent increase on the previous year. In a sign of an improving labour market, the unemployment rate in 2016 was 7.6 per cent, a figure that was 1 per cent lower than 12 months previously.<sup>142</sup> Just over half (54%) of all those unemployed had been unemployed for more than 6 months, with long-term unemployment higher for men than women. The unemployment rate for young workers (under 30) in 2017 was 11 per cent, a figure that is falling and which is lower than in many EU countries.<sup>143</sup>

**Table A 11: Employment and Unemployment rates in Bulgaria, 2016**

|          | Employment Rate (%) | Unemployment rate (%) |
|----------|---------------------|-----------------------|
| Bulgaria | 67.7                | 7.6                   |
| EU       | 71.1                | 8.6                   |

Source: Eurostat (2017a)<sup>144</sup>.

**Table A 12: Part-time, temporary and self-employment in Bulgaria, 2016**

|          | Part-time employment (%) | Temporary employment (%) | Self-employment (%) |
|----------|--------------------------|--------------------------|---------------------|
| Bulgaria | 12.0                     | 3.6                      | 11                  |
| EU       | 19.5                     | 12.0                     | 14                  |

Source: Eurostat (2017a); Eurostat (2017b)<sup>145</sup>

In the first quarter of 2017, 64 per cent of all those in employment worked in the service sector. The ICT sector in Bulgaria has developed particularly rapidly over recent years, with 2.5 per cent of all jobs being as ICT specialists. Bulgaria has the highest proportion of female ICT specialists of any EU country (28 per cent).<sup>146</sup>

As Table A12 shows, 11 per cent of the workforce are in **self-employment**, a figure that has risen over the last decade, particularly strongly in the ICT sector. Part-time work is relatively low compared to many other European countries, although it has risen over recent

<sup>142</sup> Republic of Bulgaria National Statistics Institute 2017: 1.

<sup>143</sup> Ibid.: 2.

<sup>144</sup> Eurostat 2017a: Employment and Unemployment Labour Force Survey Data: Tables, available at: <http://ec.europa.eu/eurostat/web/lfs/data/main-tables>.

<sup>145</sup> 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, <http://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20170906-1>.

<sup>146</sup> Eurostat 2016b: 1.

years. **Temporary employment** has also risen, although the current figure of 3.6 per cent is still relatively low in comparison to other EU countries.

## 6.2. The platform economy

### 6.2.1. Legal context

The Labour Code regulates labour relations between employee and employer, industrial relations, collective bargaining and control of labour regulations compliance. Recent changes to the Labour code have sought to make the labour market more flexible, in particular to introduce more flexible working hours. A separate internship contract was also introduced in 2014. **One-day employment contracts** were also introduced in 2015, for use in the agriculture sector in jobs that require no special training of employees and workers. These contracts can only last for 90 days in any calendar year.<sup>147</sup>

Employee representation and collective bargaining are also regulated in the Labour Code. Overall control over labour legislation compliance in all economic sectors is provided by the General Labour Inspectorate, part of the Minister of Labour and Social Policy.<sup>148</sup> Industrial relations in Bulgaria has become more decentralised since the 1990s, although the National Council for Tripartite Cooperation (NCTC) was established in 1993, and includes members of all representative trade unions and employers' organisations, as well as the representatives of the government. As Eurofound note, since 2011 social dialogue and industrial relations in Bulgaria have been functioning in a complex political and economic climate, in a context in which the state has sought to disregard tripartism.<sup>149</sup> Trade union density is 18 per cent in Bulgaria, and collective bargaining coverage (through company agreements) is 29 per cent.<sup>150</sup>

**Many platform economy workers in Bulgaria are considered to be self-employed or entrepreneurs.** As Zahariev<sup>151</sup> points out, social and health insurance legislation in Bulgaria uses the term "self-insured" to refer to all persons who pay their own contributions and do not have an employer: this would include most self-employed. All self-employed persons have to pay the insurance due based on a minimum insurable amount each month. If they earn more, the difference, up to that due on the maximum insurable income, is paid at the end of the tax year. Most problematically in terms of social protection, as Zahariev notes,<sup>152</sup> **self-employed workers have no protection against unemployment, and little protection in the event of a workplace accident.**

In some other areas, self-employed workers enjoy similar levels of social protection to other workers. Zahariev notes that retirement rules are also the same as for regular employees, and the size of state pension is calculated using the same formula. However, self-employed workers are not organised strongly into trade unions. Zahariev also points out that the Bulgarian social security and the health insurance systems face large deficits each year, and that there is a trend to reducing access for citizens, rather than looking to extend protection to new groups.<sup>153</sup>

<sup>147</sup> ETUI 2016: 1-4.

<sup>148</sup> Eurofound 2015c: 2.

<sup>149</sup> Ibid.: 2.

<sup>150</sup> Worker Participation.Eu 2016: 2.

<sup>151</sup> Zahariev 2017: 4.

<sup>152</sup> Ibid.: 4.

<sup>153</sup> Ibid.: 4.

### 6.2.2. Development of the platform economy

Platform work has grown relatively rapidly in recent years. The sectors in which the presence of collaborative economy in Bulgaria is strongest are transport, ICT and tourism, although robust evidence on the extent of platform economy working in these sectors is limited. With regard to the ICT sector, the main occupations are programmers, system administrators, specialists in software maintenance, specialists in testing software, specialists creating websites, graphic design, copywriting, marketing, email marketing specialist, specialist in optimising search engines, etc. (outsourcing and reassigned services and activities, the so-called call centres employees). In the transport sector, drivers are the main occupational group, whilst in tourism, the main categories are renting out real estate property, and services at home (construction, maintenance, cleaning, etc.)

**The basic forms of employment for workers in the platform economy are self-employment and entrepreneurship.** However, interviewees for this study found it hard to define how work in the platform economy differs from “traditional”, standard forms of employment. **The main reasons pointed out for this difficulty was that different types of sectors were included in the platform economy, and that labour legislation defining the various types had yet be developed.** In answer to the question, interviewees united around the view that, since people working in the collaborative economy had no single employer and no concrete work place, no information could be obtained concerning the working conditions, working hours, quality of jobs, or types of activities performed.

There is as of yet no organised social protection of workers in the platform economy in Bulgaria. The various professions differ and the problems arising are specific; all this makes it difficult for the respective workers to be covered under a single legal protection. Such a legal framework has yet to be defined in the various sectors. A considerable number of people must be employed in the platform economy before the process of social protection can really start, and respective policies be introduced. The genuine economic and social need for legal regulation and a legal framework might then appear. According to the respondents, such regulations should be considered at the national level and the general European level.

The great challenge to trade union representatives, employers' organisations, and ministries is reaching those workers that perform platform work, and establishing who they are, as these forms of work are still largely hidden in the grey economy. Social protection is seen a two-sided process, with every protection involving rights and obligations.

Overall, in Bulgaria, there is a positive attitude towards the development of the collaborative economy. The collaborative economy leads to growing competition, the possibility of ensuring timely, higher-quality services at more reasonable, lower prices, the possibility of having access to different people fulfilling the same kind of activity or service, including people who are not necessarily on the national labour market. Generally, the respondents suggested that the ways to make people aware of the need for social protection (so they can make a genuinely informed choice) are: a widespread media initiative aimed at clarifying the basic proposals of the trade union associations, and formal education and informal education concerning the issue.



## 7. POLAND

The Polish economy has seen significant labour market reform over the last 15 years. At the present time, unemployment is historically low, and employment high, although these figures mask large regional differences, and high levels of long-term unemployment, particularly amongst younger workers. Non-standard employment, particularly temporary work is high, and civil law contracts (subject to lower social security contributions from employers) are rising. The platform economy is growing in Poland, although it remains still relatively underdeveloped compared to a number of the other countries in the EU.

### 7.1. Labour market trends

The Polish Labour Force survey reveals a rise in employment and a decline in unemployment over recent years. In 2016, the employment rate in Poland stood at the 69.3 per cent, representing a small rise since 2015. The unemployment rate was 6.2 per cent, a fall of 1 per cent from the previous year.<sup>154</sup> Unemployment is lower than the EU average of 8.7 per cent. A recent EURES report indicates that the unemployment rate in 2016 was the lowest level that it has been at any point over the last 25 years.<sup>155</sup>

**Table A 13: Employment and Unemployment rates in Poland, 2016**

|        | Employment Rate (%) | Unemployment rate (%) |
|--------|---------------------|-----------------------|
| Poland | 69.3                | 6.2                   |
| EU     | 71.1                | 8.6                   |

**Source:** Eurostat (2017a)<sup>156</sup>.

This relatively positive picture is tempered by stark regional differences, with unemployment being high in areas such as the Mazowieckie Region, and within this the Szydłowiecki District, where the unemployment rate exceeded 30 per cent in April 2016. The seasonal nature of Polish employment has also been recognised as a structural issue. Over half of the unemployed have not completed secondary education, one in four has no work experience, and nearly 40 per cent have been registered as jobless for over a year. The average duration of unemployment remains high.<sup>157</sup> While the fall in unemployment rates in part reflects a greater availability of jobs in a more buoyant labour market, it also reflects rises in inactivity rates, and rises in the number of the unemployed participating in activation schemes.<sup>158</sup>

As Table A14 shows, atypical work accounts for a significant proportion of the workforce in Poland. **Temporary employment** accounts for more than one-in-five of the workforce. Indeed, most job creation in Poland over recent years has occurred almost entirely through temporary employment contracts.<sup>159</sup> **Part-time employment** is below the EU average, standing at 7 per cent in 2014.<sup>160</sup> Maciejewska and Mrozowicki argue that this is due to low median wages, which make it difficult for workers to sustain themselves on contracts with

<sup>154</sup> EURES 2016: 1.

<sup>155</sup> Ibid.: 2.

<sup>156</sup> Eurostat 2017a: Employment and Unemployment Labour Force Survey Data: Tables, available at: <http://ec.europa.eu/eurostat/web/lfs/data/main-tables>.

<sup>157</sup> EURES 2016: 3.

<sup>158</sup> EURES 2016: 2.

<sup>159</sup> European Commission 2016b: 2.

<sup>160</sup> Maciejewska and Mrozowicki 2016: 5.

low hours. Temporary agency work increased fourfold between 2004-2014, standing at around 700,000 in 2014.<sup>161</sup>

**Table A 14: Part-time, temporary and self-employment in Poland, 2016**

|        | Part-time employment (%) | Temporary employment (%) | Self-employment (%) |
|--------|--------------------------|--------------------------|---------------------|
| Poland | 6.4                      | 21.9                     | 18                  |
| EU     | 19.5                     | 12.0                     | 14                  |

**Source:** Eurostat 2017a; Eurostat 2017b<sup>162</sup>.

Freelance contracts and other unnamed “civil law contracts” are some of the most often used forms of flexible employment in Poland. Civil-law contracts are not subject to Labour Code regulations and thus require lower or no social security contributions, and account for a large share of temporary contracts. The latest data available from the Central Statistical Office suggests that 1.3 million people (8.2% of the employed) were working on civil law contracts in 2014, a number that has more than doubled since 2010. A further contractual category of employment is **self-employment**, where workers provide services or perform work as a legal subject (one-person company) for other subjects. These account for 18 per cent of employment in Poland.

## 7.2. The platform economy

### 7.2.1. Legal context

Polish workers operate on a range of different contracts: those for an indefinite duration, those that are probationary in nature, and those that are fixed-term. Each has specific rights and entitlements under the Polish Labour Code. In addition, the Civil Code can also mean additional requirements for employers using labour contracts, with Civil Code contracts specifying a particular piece of work to be completed in a defined amount of time. As the EC notes, these Civil Code contracts are seen as being cheaper for employers. They have less social protection requirements.<sup>163</sup>

There has been significant labour market reform in the Polish economy over the last 15 years. In the early 2000s, the Polish legal framework was adjusted to EU regulations. This process involved changes to the Labour Code and the surrounding acts, involving greater regulation of temporary work agencies, and more stringent requirements for the use and renewal of fixed term contracts. As Maciejewska and Mrozowicki note, some of these regulations actually weakened workers’ protection.<sup>164</sup> The financial crisis of 2008 onwards resulted in further labour market reforms designed to increase labour flexibility without enforcing labour protection. The “Anti-crisis Act” of 2009 allowed employers to conclude an unlimited number of fixed term contracts in the period of 24 months, and to extend the reference period for calculating working time from 4 to 12 months.

Most recently, amendments to the Labour Code have restricted the number of consecutive fixed-term employment contracts and their maximum duration. Moreover, these amendments ensure that fixed term contract workers have similar notice periods to

<sup>161</sup> Ibid.: 7.

<sup>162</sup> 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, <http://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20170906-1>.

<sup>163</sup> EC 2016: 2.

<sup>164</sup> Maciejewska and Mrozowicki.

permanent employees. Social security contributions connected to some civil law contracts have also been increased, while draft laws seek to strengthen the role of the State Labour Inspectorate and introduce a minimum wage for those working on civil law contracts.<sup>165</sup>

**Platform economy workers are concentrated in self-employment in Poland and in freelance civil law contracts.** As Chłoń-Domińczak et al.<sup>166</sup> note, most social protection benefits in Poland are based on the social insurance principle. Thus, self-employed workers and those employed on non-standard contracts are theoretically covered by the general social insurance system, with contribution rates being the same for everyone, but insurance against some risks is voluntary. Sickness and maternity insurance, for example is voluntary for the self-employed and commission-contract workers. Furthermore, the social insurance system does not cover contracts for a specific task, which encompasses much platform work. This incentivises the use of civil contracts; since costs are lower for those than for regular employment contracts.

Access to some benefits for platform economy workers are also limited in other areas. For instance, self-employed people must have paid contributions for at least 90 days to receive sickness benefits. Chłoń-Domińczak<sup>167</sup> concludes that, **the coverage of social protection benefits of self-employed workers and those on non-standard contracts in Poland is similar to that of labour-code workers, but lower contribution levels mean that their benefits are lower in practice.**

#### 7.2.2. Development of the platform economy

The platform economy is relatively new in Poland. One key report into the platform economy found that 92 per cent of internet users in Poland know about the existence of economy platforms. Forty-three per cent of them use at least one of the platforms. At the same time, the term “collaborative economy” is only known by 18.6 per cent of respondents, which suggests the penetration of the collaborative economy in Poland is still relatively limited.<sup>168</sup> A study for PWC on the collaborative economy found that 54 per cent of sharing economy service users in Poland claim that the main advantage of using collaborative economy services is price considerations, and that the total supply of peer-to-peer accommodation accounted for around 10 per cent of the total accommodation capacity in Poland.<sup>169</sup>

The main sectors where the platform economy has developed are: Cars sharing in the cities (Uber, Car2go); city bike sharing (NextBike, Veturillo); private cars sharing (BlaBlaCar, jadedzabioire.pl); renting an apartment or room (Airbnb, Couchsurfing); online courses (KhanAcademy, Coursera, Udemy, Skillshare); providing services by private individuals (TakeTask, Freelancer.com); coworking offices (MyMeetingRoom, BusinessLink); crowdfunding and loans (Kickstarter, PolakPotrafi.pl, Kokos.pl); and, the sale of food by the farmers (RanoZebrano.pl, LokalnyRolnik.pl, food and drink cooperatives).<sup>170</sup>

Current policies of the Polish state are intended to grow the platform economy further. PWC further note that, The Polish Ministry of Development have stated that they will oppose regulation that “attempts to hamper the development of the collaborative economy” and is actively seeking to reduce administrative bureaucracy surrounding platform working.<sup>171</sup>

<sup>165</sup> EC 2016: 2.

<sup>166</sup> Chłoń-Domińczak 2017.

<sup>167</sup> Ibid.: 4.

<sup>168</sup> Sokołowski et al. 2016: 3.

<sup>169</sup> PWC 2016: 12.

<sup>170</sup> Sokołowski et al. 2016: 5.

<sup>171</sup> PWC 2016: 14.

## 8. DENMARK

The Danish labour market is a deregulated system with low firing costs and flexible employment contracts. The flexible labour market is, however, compensated for by a generous system of social protection towards the unemployed, buttressed by unemployment insurance benefits in conjunction with investment in training and qualification progression of the unemployed. The flexicurity system remains a lynchpin of the Danish labour market. Workers get a high unemployment allowance supplemented by an active system of reintegration into the labour market. **At the same time, employment relations in Denmark are centralised in that collective agreements set standard employment practices involving pay levels, sick leave, private pensions schemes and so on at sectoral and workplace levels.** Platform economy working in Denmark should be understood in this specific context, unique among the European countries.

### 8.1. Labour Market Trends

Denmark was hit, like other developed economies, by the most recent economic crisis. Unemployment increased nearly twofold, from 3.4 per cent of the total population in 2008 to 7.6 per cent in 2011. While employment has partially restored thereafter it has yet to reach the pre-crisis level, calling into the question the effectiveness of the Danish flexible labour market. As Table A15 shows, the employment rate is high in Denmark compared to the EU, and unemployment is lower than the EU average.

**Table A 15: Employment and Unemployment rates in Denmark, 2016**

|         | Employment Rate (%) | Unemployment rate (%) |
|---------|---------------------|-----------------------|
| Denmark | 77.4                | 6.2                   |
| EU      | 71.1                | 8.6                   |

**Source:** Eurostat 2017a<sup>172</sup>.

Pay levels have slowed down, producing a negative trend in real earning until 2013-2014. Against this backdrop, Denmark still tops the list of OECD counties with high labour turnover; albeit this does not necessarily imply negative consequences for the workers. Despite a relatively high share (for Danish standards) of unemployed in the labour market, Danish systems of social protection are still generous, covering all workers through either active labour market policies or collective agreements. The key challenge relating to the platform economy is how to adjust it to the existing regulations of the Danish flexible labour market.

The Danish flexicurity model is premised on flexible labour markets with limited legal protection countervailed by a generous universal system of social protection based on significant financial contributions of economic agents involving both workers and employers. In Denmark, national policies do not concern the shape of employment relations, leaving it to the parties involved: trade unions, employers and employees. There is, for example, no statutory minimum wage, as pay standards are set through collective agreements at the industry and firm level. Over 80 per cent of employees in Denmark are covered by collective agreements and trade unions are actively involved in social dialogue with employers and the government.

Non-standard employment is well-established in Denmark, within a system that promotes flexicurity. As Table A16 shows, more than a quarter of the workforce are employed on a

<sup>172</sup> Eurostat 2017a: Employment and Unemployment Labour Force Survey Data: Tables, available at: <http://ec.europa.eu/eurostat/web/lfs/data/main-tables>.

part-time basis, and 12.4 per cent are in temporary jobs (the latter being similar to the EU average. Self-employment is relatively low.

**Table A 16: Part-time, temporary and self-employment in Denmark, 2016**

|         | Part-time employment (%) | Temporary employment (%) | Self-employment (%) |
|---------|--------------------------|--------------------------|---------------------|
| Denmark | 26.4                     | 12.4                     | 8                   |
| EU      | 19.5                     | 12.0                     | 14                  |

**Source:** Eurostat 2017a; Eurostat 2017b<sup>173</sup>.

A cornerstone of the Danish labour market is active labour market policies (ALMPs). Since the 1990s ALMPs have been a critical mechanism for reintegrating the unemployed and other disadvantaged groups into the labour market, credited with an unprecedented degree of success prior to the most recent economy crisis.<sup>174</sup> The prospects of ALMPs have been called into question by a post-recessionary trajectory towards cutbacks in public expenditure and subsequent marketization of employment services.<sup>175</sup> Yet, overall spending on ALMPs as a percentage of GDP is significantly higher in Denmark compared to the rest of the EU, in the past ten years averaging more than 3 per cent of GDP. The UK for instance spends up 0.5 per cent of its GDP on ALMPs while the European average is between 1.5-2 per cent.<sup>176</sup>

ALMPs are based on the following key elements: (i) social security measures to protect employees during economic downturns; (ii) vocational education and training and upskilling to foster equilibrium in the labour market; (iii) a system of employment assistance incentives routed towards employers, so as to offset risks associated with hiring the unemployed.<sup>177</sup> Taken together, these measures render labour markets stable and cushion employees from abrupt spells of unemployment. The system is very much decentralised where local Jobcentres remain a one stop shop for employers and the unemployed, while few training activities are outsourced to the third parties. In Denmark, in spite of dwindling social support to the unemployed, two flagship programmes, namely *Løntilskud* and *Virksomhedspraktik*, assume direct subsidies to employers. The former is a temporary wage subsidised programme while the latter is a company-based placement scheme, with both being predicated upon full wage compensation for the programmes' duration.

Denmark is characterised by influential national and peak employer associations.<sup>178</sup> Basic attributes of job quality in Denmark are set up through deliberations between employer associations, trade unions and the government at the national and sectoral level. Since the 1980s, there has been sector-based coordination of wage bargaining,<sup>179</sup> with *Dansk Industriet* (DI) playing a leading role in collective negotiations. Deliberations at the national level, which cover broader economic and political issues, are under the remit of *Dansk Arbejdsgiverforeningen* (DA), a national peak association. That said, considerable power relating to working conditions and recruitment policies still resides at the level of workplace

<sup>173</sup> 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, <http://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20170906-1>.

<sup>174</sup> Martin and Swank 2012.

<sup>175</sup> Ingold and Valizade 2015.

<sup>176</sup> Eurostat 2016c: *Europe in Figures*, Eurostat Yearbook, [http://ec.europa.eu/eurostat/statistics-explained/index.php/Europe\\_in\\_figures\\_-\\_Eurostat\\_yearbook](http://ec.europa.eu/eurostat/statistics-explained/index.php/Europe_in_figures_-_Eurostat_yearbook).

<sup>177</sup> Bonoli 2010.

<sup>178</sup> Martin and Swank 2012.

<sup>179</sup> Dølvik 2007.

negotiations.<sup>180</sup> It for this main reason that the Danish system is often labelled “centralised decentralisation”, “organised decentralisation” and “embedded flexibilisation”.<sup>181</sup>

## 8.2. The platform economy

### 8.2.1. The legal context

The effect of the platform economy on the labour market in general and on working conditions is mixed. Most platform economy workers in Denmark are concentrated in self-employment. **Social protection for the self-employed and persons in non-standard jobs is relatively good in Denmark.** Kvist<sup>182</sup> notes that non-standard workers have the same access as workers in standard jobs to social protections, including healthcare, social services, family services, childcare, long-term care and various schemes in education and active labour market policies.

Kvist also argues that for protection in the form of cash benefits, the picture is more of a “mixed bag”.<sup>183</sup> For non-contributory benefits, non-standard workers enjoy the same social protection as other citizens (family benefits like child family allowances and child allowances, disability pension, national old age pension, and social assistance scheme). However, for contributory schemes, protection is less than for salaried workers (unemployment insurance, sickness benefits and work accident insurance). Workers can opt in to these schemes but take-up is relatively low.<sup>184</sup>

Recent surveys indicate that workers are rather unsure in terms of their attitudes to the platform economy. **A key problem with the platform economy is about fitting it in the existing system of employment relations in Denmark and a wide social safety net involving, in particular, ALMPs.** Those workers who use the platform economy as an additional source of income are covered by a collective agreement in the main job and protected by the universal welfare system.

Freelancers in Denmark have special contribution schemes which allow them to be covered by ALMPs like all other workers. It gets immensely problematic though if the platform economy is a sole source of income, meaning that most of the benefit enjoyed by employees through collective agreements are not accessible for such workers. While very few platforms have subscribed to industry-wide collective agreements, by and large **workers in the platform economy are exempted from collective bargaining.** With this in mind, the Danish Confederation of Trade Unions (LO) has exercised a cautious approach towards the platform economy, with no clear-cut opposition to it. At the same time, the idea of the universal (basic) income is not widely supported, primarily due to the welfare state system in Denmark.

### 8.2.2. Development of the platform economy

The platform economy (“platformsøkonomi”, in Danish) is an emerging phenomenon in Denmark. Its size and impact on the national economy remains opaque, although some estimates suggest the platform economy accounts for around 3 per cent of employment.<sup>185</sup>

The platform economy is broad in Denmark, with over 100 initiatives ranging from well-known, international platforms like Uber or AirBnB, to local platforms for low- and high-skilled

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<sup>180</sup> Due and Madsen 2008.

<sup>181</sup> Thelen, 2014; Traxler, 2010.

<sup>182</sup> Kvist 2017.

<sup>183</sup> Ibid.

<sup>184</sup> Ibid.

<sup>185</sup> Petropoulos 2015: 6.

tasks. Examples of the latter include *Den Lille Tjeneste*, providing help with small tasks and errands; and *Jepti*, where peers can rent out personal belongings. Uber, however, has announced the decision to leave Denmark because of the strict taxi regulations that has made its services illegal.

Ilsoe<sup>186</sup> points out that there is much interest amongst the state, employers and unions in the development of the platform economy. Unions, notes Ilsoe, have initiated dialogue with political parties and participated in EU level forums and debates over the platform economy. Unions in Denmark have also created a new pension scheme for members not covered by collective agreements, including freelancers, many of whom will be working in the platform economy. There is also, according to Ilsoe, a freelancer network.<sup>187</sup>

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<sup>186</sup> Ilsoe 2017.

<sup>187</sup> Ibid.: 6.

## ANNEX 2: METHODOLOGY

This report is based on a research study conducted between December 2016 and July 2017 by the **Centre for Employment Relations Innovation and Change** at the University of Leeds. The findings presented are based on a literature review, legal analysis, 50 interviews across eight countries, and a survey of 1,200 platform workers across four online platforms.

The case studies of platform working were undertaken across the following eight countries:

- Bulgaria
- Denmark
- France
- Germany
- Italy
- Poland
- Spain
- UK

Detail on the countries was built up using secondary documentation and literature, along with qualitative interviews with relevant stakeholders in each country. These interviews took place with representatives from business, employers, platforms and intermediaries, the state/government, labour/worker representatives, legal experts, practitioners, academics, activists and journalists.

The interviews explored at an individual country level the nature of platforms and platform working, the experiences of on-line workers, social protection, labour rights, health and safety, career development and training. Some interviewees also commented on developments more widely. A snowball and purposive sampling methodology was used to identify respondents. A List of interviewees (anonymised) is included in Annexe 3, and a copy of the thematic interview guide can be found in Annexe 4.

The survey was developed and undertaken between February and April 2017 using four online platforms: Amazon Mechanical Turk (AMT), Clickworker, CrowdFlower and Microworkers. These platforms are representative of microtasking: short human intelligence tasks (HITs) used to split more complex operations into easily performed tasks. These are put out to contractors/bidders, with successful bidders completing the tasks and paid on delivery. Examples of such micro tasks are video screening, picture matching, filling in questionnaires and so forth (most of the tasks take seconds or, at most, a few minutes to perform).

The realm of the online economy is much more diverse than microtasking, involving professional freelance platforms like Upwork and TaskRabbit, as well as courier delivery, taxi-driving and many other forms of work. However, as the survey findings reveal, many respondents registered and found work through multiple platforms, including non-microtasking platforms. Therefore, the survey does offer wider coverage of the platform economy. Furthermore, it is arguable that the platforms used in the survey are of interest because they highlight the particular challenges that emerge in relation to the social protection of workers with no fixed place or time of work, who find contracts via a range of intermediaries and platforms.

The survey was designed with a number of sections. Section 1 gathered personal information on respondents. Section 2 gathered information on the platforms that respondents worked through. Respondents were able to select multiple platforms and were also asked to identify up to 5 main platforms that they used. They also were asked to indicate how often they



worked in the platform economy, and how many hours a week they worked. A series of questions were developed to ascertain hourly income, included actual hourly rates, minimum rates, and perceptions of minimum rates that respondents would work for. Importantly, the survey also asked what proportion of personal and household income was obtained from the platform economy. Perceptual questions were asked about income and work in the platform economy. Well-validated questions from previous surveys were included that asked about stress, well-being and satisfaction with work. Section 3 of the survey asked respondents about any work they did in jobs outside the platform economy and also about experiences of unemployment. This section also gathered data on total personal and household income, and perceptions about income. Section 4 looked at experiences and perceptions towards social protection, both in platform economy and non-platform economy jobs. The forms of social protection covered are those outlined in the introduction of the report, notably protection for healthcare, sickness, disability, old age, pregnancy and childrearing, family caring, unemployment and housing. Respondents were also asked whether they felt protection as a platform economy worker was adequate, and what additional protection they might need.

The survey was put together in Survey Monkey, the online survey platform. Respondents were gathered by registering the survey as a Human Intelligence Task on Clickworker, Crowdfunder, Amazon Mechanical Turk and Microworkers. This was felt to be the most effective way of locating workers currently engaged in work in the platform economy. The responses were gathered between March and April 2017. In total, 1,200 responses to the survey were generated, distributed equally across the four platforms.

Analysis of the survey began with descriptive statistics, outlining the main features and demographic/personal characteristics of the sample. This was followed by some cross-tabular analysis. Latent Class Analysis (LCA) was used to recover statistically independent clusters from the population in question. Clusters of platform workers were identified using current employment status (whether respondents had jobs (one or more) outside the platform economy), unemployment (whether respondents had experienced spells of unemployment in the past five years), reliance on platform work (the percentage contribution of platform work to personal income, and financial security (whether participants covered essential domestic payments easily or with difficulty). Further analysis was then conducted on the identified clusters.

## ANNEX 3: LIST OF INTERVIEWEES (ANONYMISED)

| <b>Interviewee</b>  | <b>Country</b> | <b>Type of respondent</b> |
|---|----------------|---------------------------|
| Government minister for labour  | Bulgaria       | Government                |
| Confederation of Trade Unions representative                                      | Bulgaria       | Employee representative   |
| Confederation of trade unions representative                                      | Bulgaria       | Employee representative   |
| Confederation of trade union representative                                       | Bulgaria       | Employee representative   |
| Employer representative organisation  | Bulgaria       | Employer representative   |
| Freelancer social media group representative                                      | Bulgaria       | Business representative   |
| Platform co-founder   | Bulgaria       | Business representative   |
| Union representative  | Denmark        | Union representative      |
| Academic  | Denmark        | Expert                    |
| Academic  | Denmark        | Expert                    |
| Owner, platform provider  | Denmark        | Platform                  |
| Lobby group/research centre for auto-entrepreneurs                                | France         | Expert                    |
| Organisation researching and promoting collaborative economy, academic researcher | France         | Expert/lobbying group     |
| Self-employer worker co-operative   | France         | Worker representative     |
| Self-employed worker co-operative   | France         | Worker representative     |
| Academic researcher   | France         | Expert                    |
| Academic researcher   | France/Belgium | Expert                    |
| Government advisory body  | France         | Government                |
| Self-employed worker co-operative   | France/Belgium | Worker representative     |
| Expert on gig economy   | Germany        | Trade union               |
| Expert on gig economy   | Germany        | Trade union               |
| Expert on self-employment   | Germany        | Trade union               |

|   |         |                               |
|---|---------|-------------------------------|
| Ministry of Labour representative                             | Germany | Government                    |
| Platform founder  | Germany | Platform                      |
| Platform company representative                               | Germany | Platform                      |
| Business association ICT                                      | Germany | Business representative       |
| Cooperative platform  | Italy   | Platform                      |
| Worker on major platform, activist, worker representative     | Italy   | Worker representative, worker |
| Journalist, expert on gig economy                             | Italy   | Expert                        |
| Freelance and self-employment advocacy group                  | Italy   | Worker representative         |
| Union spokesperson for union representing gig economy workers | Italy   | Worker representative         |
| Researcher  | Poland  | Expert                        |
| Crowdwork company owner                                       | Poland  | Platform                      |
| Union representative  | Poland  | Trade unions representative   |
| Trade union representative body                               | Poland  | Trade unions representative   |
| Union representative  | Poland  | Trade unions representative   |
| Platform owner  | Poland  | Platform                      |
| Lawyer  | Spain   | Expert/employment lawyer      |
| Sharing platform organisation                                 | Spain   | Platform                      |
| Employer representative                                       | Spain   | Employer Representative       |
| Academic  | Spain   | Expert                        |
| Academic/platform owner                                       | Spain   | Expert/platform               |
| Chair, employment practices review                            | UK      | Expert                        |
| Recruitment industry representative                           | UK      | Employer representative       |
| HR managers' representative organisation                      | UK      | Professional association      |
| Union representing gig economy workers                        | UK      | Worker representative         |
| Union   | UK      | Worker representative         |

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|                            |        |                                      |
|----------------------------|--------|--------------------------------------|
| Gig economy Worker         | UK     | Worker                               |
| Activist, online platforms | Canada | Activist, worker representative      |
| Platform                   | EU     | 3 interviewees from leading platform |

## **ANNEX 4: THEMATIC GUIDE USED IN INTERVIEWS**

### **1. Introduction**

Background to the project – *see information sheet for details that can be used here*

Background on actor/stakeholder

organisation

role

interest/involvement in issues relating to the collaborative economy and/or social protection

### **2. Perceptions about the nature and rise of collaborative economy**

What is meant by the collaborative economy?

What forms of work are part of the collaborative economy in your view?

How do these differ from “traditional” standard forms of employment? In terms of hours of work, conditions, quality of jobs, types of activities performed, use of technology (try to draw out differences between different kinds)

Perceptions of the rise of the collaborative economy (numbers, sectors, groups of workers)

### **3. Benefits/costs of the collaborative economy for workers**

What, in your view are the benefits for workers of operating in the collaborative economy

*issues relating to pay, job quality, working conditions, flexibility, working time, security, skills, protection, regulation*

*Draw out differences between different types of collaborative working*

And what about the costs/disadvantages

### **4. Protection of workers in the collaborative economy**

How is protection organised for workers in the collaborative economy?

Collaborative economy workers – is their status as workers? Contractors?

Coverage/protection by law/regulations at national level: pay, working time, benefits, equality and diversity, maternity/paternity, health and safety, training, freedom of association, collective rights, welfare and benefits,

Coverage/protection by EU-Level regulations

Protection in practice

- what are the challenges of protection for these workers?

- Gaps in protection in the areas above?

- How and why do these gaps occur?

- job quality and the experience of work for workers in collaborative economy

- any specific issues that have been encountered around protection. Particular types of arrangement that are problematic? Particular companies/organisations/particular sectors
- Broader effects of collaborative economy working on job quality, in-work poverty, unemployment?

### **5. Perceptions around effective protection of collaborative economy workers**

- Strategies for protecting collaborative economy workers

(may be more important for some stakeholder than others of course)

- e.g. unions: what attempts have been used to try and improve protection for workers in the collaborative economy? What are the strategies that are being pursued and why? Which cases/organisations/platforms are you most engaged with? Where have you achieved success and why?

e.g. Policy makers: what are the challenges of protecting workers in the collaborative economy. What particular initiatives/policies have been developed and why?

Probe/question on the following options which may/may not improve social protection

- a shift from contribution-based to tax-based systems;
- basic income systems;
- "intermediaries" like smartbe.be; *which may help provide solidarities/collective identity in areas of the collaborative economy. Co-operative structures? Lobbying role? Role in co-ordination?*
- personal social security accounts;
- possible financing of activities/protection through a robot tax.

DIRECTORATE-GENERAL FOR INTERNAL POLICIES

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