



Mutual Learning Programme

DG Employment, Social Affairs and Inclusion

Key messages from the Peer Review on “Platform work”

12-14 October 2020, online

Written by ICF in collaboration with the European Centre for Social Welfare Policy and Research.

November 2020



EUROPEAN COMMISSION

Directorate-General for Employment, Social Affairs and Inclusion

Unit A1

Contact: Shui-Beam Lam

E-mail: EMPL-A1-UNIT@ec.europa.eu

Web site: <http://ec.europa.eu/social/mlp>

European Commission

B-1049 Brussels

Mutual Learning Programme

DG Employment, Social Affairs and Inclusion

Directorate-General for Employment, Social Affairs and Inclusion

Peer Review on “Platform work”

12-14 October 2020, online

**Europe Direct is a service to help you find answers
to your questions about the European Union.**

Freephone number (*):

00 800 6 7 8 9 10 11

(*) The information given is free, as are most calls (though some operators, phone boxes or hotels may charge you).

LEGAL NOTICE

The information contained in this publication does not necessarily reflect the official position of the European Commission

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

© European Union, **2020**

Reproduction is authorised provided the source is acknowledged.

Table of Contents

1	Introduction	2
1.1	Background and purpose of the Peer Review	2
1.2	The EU and international policy context	2
1.3	The Peer Review: key messages and policy implications	3
2	Host country practice	6
2.1	Governmental initiatives	6
2.2	Social partner initiatives	7
3	Key issues discussed	9
3.1	Shared understanding of platform work	9
3.2	The employment status of platform workers	9
3.2.1	Enforcement of existing laws on employment status	9
3.2.2	Possibility of a third, intermediary employment status	10
3.3	Social protection and working conditions	11
3.3.1	Adapting social protection schemes	11
3.3.2	Improving working conditions and upskilling	11
3.4	Collective agreements and social dialogue	12
3.4.1	Challenges to organise workers and platforms	13
3.4.2	Social dialogue and EU competition law	13
3.5	Data collection, registration, and reporting	13
3.5.1	Improving data collection	13
3.5.2	Reporting and registration requirements for platforms	14
4.	Conclusions and next steps	15

1 Introduction

The Peer Review, hosted by the German Ministry of Labour and Social Affairs (BMAS) in the context of the German EU Council Presidency, focused on the improvement of labour conditions and access to social protection for platform workers within the EU (and the EEA). Key discussion points included challenges and opportunities of platform work, national practices in regulating platform work and policy instruments at both national and EU level for achieving better working conditions and access to social protection, protecting platform workers and safeguarding their rights.

The Peer Review brought together government representatives and independent experts from the host country (Germany) and 13 peer countries (Belgium, Denmark, Finland, France, Greece, Ireland, Italy, Latvia, the Netherlands, Norway, Portugal, Spain and Sweden) as well as representatives from the European Commission and Eurofound. Representatives of three platform companies shared their insights in a panel discussion organised as part of the Peer Review.

1.1 Background and purpose of the Peer Review

The rapid and complex labour market changes associated with digitalisation demand responsive policy thinking. That is why the host country (German Ministry of Labour and Social Affairs (BMAS)) created the Policy Lab digital work and society. The Policy Lab aims to identify and develop new policy approaches to digitalisation in a proactive way. A series of consultations with a range of stakeholders organised by the Policy Lab in 2019 aimed to understand opportunities and challenges of platform work. Current and prospective initiatives to cope with the identified challenges include both governmental policies and social partner initiatives.

Platform work is not yet a mass phenomenon but its share and contribution to economic growth in the EU is expected to grow. It offers an efficient organisation of work, provides new opportunities by creating paths to employment, due to its low threshold of access, or by widening the client base and regional reach. At the same time, it is important to ensure fair working conditions in the platform economy as well as social dialogue and access to social protection, regardless of whether platform work is performed by employees or self-employed persons.

1.2 The EU and international policy context

Various initiatives at EU level were launched in recent years linked to the Digital Market Strategy and the European Pillar of Social Rights. Launched in February 2020, the European Digital Strategy includes the **EU Data Strategy** and **White paper on Artificial Intelligence (AI)**, setting out Europe's ambition as a leader in digital transformation. The White Paper proposes policy options for the use of AI for management and HR functions. Under the proposed approach, the use of AI for personnel related decision-making could be classified as high-risk activity because of the risk that automated decision-making leads to discrimination.

In addition, the **Digital Services Act package** aims to strengthen the responsibility of online platforms and clarify the rules for online services. The proposed framework consists of two main pillars. First, it aims to clear the rules framing the responsibilities of digital services to protect users. Second, the Commission would propose ex-ante rules covering large online platforms acting as gatekeepers to ensure competition.

In July 2020, the European Commission published a **proposal to revise the Directive on Administrative Cooperation (Directive 2011/16/EU)** to extend EU tax transparency rules to digital platforms. The proposal includes a reporting obligation and an automatic exchange of information between Member States' tax administrations on revenues generated by sellers on these platforms.

The **European Pillar of Social Rights** is also relevant to platform work. For example, principle 5 states that workers have the right to fair and equal treatment regarding

working conditions, access to social protection and training, regardless of the type and duration of the employment relationship. In this context, the European Commission adopted the proposal for a **Directive on transparent and predictable working conditions**, and the proposal for a **Council Recommendation on access to Social Protection**. An **initiative to improve working conditions of platform workers** has been announced in the European Commission work programme for 2021.

In June 2020, the Commission formally announced another relevant initiative, to ensure that the EU competition rules do not stand in the way of collective bargaining for those who need it. Under EU competition law, genuine self-employed are considered "undertakings". Therefore, an agreement between them, regarding their fees for example, risks breaching Article 101(1) of the Treaty, which prohibits agreements between undertakings that restrict competition. Those working through platforms as self-employed may not have access to collective bargaining to improve their working conditions. The Commission is therefore now assessing whether it is necessary to adopt measures at EU level to remove obstacles posed by EU competition law to individuals that need access to collective bargaining. Stakeholders were consulted in 2020 (also in the context of the Digital Services Act open public consultation) **to support the development of a proposal extending collective bargaining to self-employed**, including those working in the platform economy.

The stakeholders and relevant EU agencies are engaged in the debate and draft relevant options and studies. In September 2020, the **European Economic and Social Committee (EESC) issued an opinion** calling the Commission and Member States to clarify the concepts of employer, supply and demand intermediary, employee, self-employed worker and move towards uniformity of concepts in order to achieve decent work in the platform economy. In addition, the EESC considers that in the platform economy steps should be taken to ensure that all workers have access to a set of rights and to protection, regardless of their employment status or type of contract, guaranteeing that some operators cannot gain a competitive edge by not meeting obligations and responsibilities. **Eurofound** in its work explores different types of platform work and provides a repository of relevant initiatives related to platform work. Meanwhile, EU-OSHA focuses on **the OSH risks that may result from online platform work**.

1.3 The Peer Review: key messages and policy implications

The key learning messages from the Peer Review are summarised below:

Different policy responses to similar challenges of platform work

- Member States face similar challenges with regards to defining the status of workers and companies in the platform economy, enabling social dialogue, responding to different protection needs for the diverse types of platforms and for a variety of work arrangements (part-time, hybrid income, etc.), mitigating the risks of undeclared work, social dumping and gatekeeping by platform companies. The policy responses to these challenges vary across Europe, including legislative changes to employment, taxation law, extending social protection coverage and social partners initiatives – informing, organising or negotiating working conditions of platform workers.

The heterogeneity of the platform economy and Member State labour market regulation traditions require differentiated policy responses

- An EU-wide common understanding of platform work including the definition of the term and the status of the platform workers would be a good starting point for building a harmonised response across Europe. However, any action at EU level should take into account the differences in national laws on the employment status

of platform workers (employees, employee-like persons or self-employed), social protection coverage and collective bargaining traditions.

- Platform work is characterised by a variety of work arrangements in diverse types of platforms and with different protection needs of the workers across countries. The heterogeneity of business models asks for nuanced policy responses both at national and EU level.

Adaptation and enforcement of existing laws and regulations is necessary

- Many challenges related to platform work are common to other forms of non-standard work. To address those challenges existing labour, health and safety and GDPR regulations (e.g. to enable transfer of service ratings across platform companies) need to be enforced.
- To improve the safety net for platform workers, social protection coverage would need to be extended in some Member States. The cross-border nature of platform work amplifies uncertainty regarding tax and social contribution payments. An EU-wide response could improve legal certainty, level the playing field and reduce jurisdiction shopping.
- The platform economy creates paths to employment for disadvantaged groups. Access to upskilling opportunities for self-employed in the platform economy could allow their business to grow or create a flexible labour market capable of adapting to future technological changes.

Social dialogue and collective bargaining are important for improving conditions of workers and safeguarding their rights

- Workers and companies in the platform economy are not yet well organised in trade unions and employer organisations. Dialogue between platforms and workers, in the form of agreements or codes of conduct, are applied in some Member States and regarded as a flexible and effective approach to ensure minimum standards and to reduce social dumping. However, several Member States mentioned that European competition law is perceived as an obstacle and cause of uncertainty for platform workers to collectively negotiate better working conditions (in this context it was also mentioned that national competition authorities have sometimes taken action against such agreements of platform workers).
- The European Commission announced an initiative to ensure that EU competition law does not stand in the way of collective bargaining by solo self-employed in the platform economy (and beyond).
- In the future, European Works Councils for platforms active in multiple Member States could be envisaged.
- Continued dialogue between national and EU-level policymakers and stakeholders of the platform economy (platform companies, workers, trade unions, employer organisations) facilitates the development of a sustainable, fair and competitive platform economy in Europe.

Provision of information about standards regarding working conditions

- A lack of awareness amongst some platform workers about their legal status and rights shows that awareness raising as well as guidance for platform workers and companies is needed.

Data about the platform economy needs to be strengthened

- Most Member States lack robust data on the platform workers (number, income, working conditions, etc.) and platform companies (number, business models, etc.). Moreover, data collection methodologies vary across Member States and do not cover the whole of the EU. Consequently, accessibility of information about the scale of the platform economy and working conditions of platform workers needs to be strengthened, for example through EU-wide regulation on registration.

2 Host country practice¹

Platform work is not yet widespread in Germany. National surveys estimate that between 1-2% of German adults are active in the platform economy, although reliable data is currently difficult to collect. Whilst relatively small in percentage terms, this still represents a significant number of people in absolute numbers – between 620,000 to 1,791,000.² Furthermore, the platform economy has a high potential for growth.

German platform workers tend to be slightly younger and more highly educated than the general adult population in Germany. Only a third of platform workers use platform work as their primary source of income. The level of earnings from platform work varies significantly between 'pocket money' to several thousand euro per week.

Challenges from platform work in Germany arise in four main areas, with the **legal status** of platform workers being one of them. In German law three different employment statuses exist, with varying rights and legal protections:

1. Employees are fully protected by social protection systems and labour law and have the right to a minimum wage.
2. 'Employee-like' individuals enjoy specific rights like annual leave, paid sick leave, and maternity protection.
3. Self-employed enjoy limited protections. While there is no clear data, most platform workers are classified as self-employed.

The monopolistic power of platforms can lead to **unfair treatment and limited representation** of platform workers. For example, low competition between platforms reduces the bargaining power of platform workers and forces them to accept the terms and conditions set by the platform. These terms are often not favourable to workers and sometimes include provisions preventing platform workers from contacting users of other platforms.

The self-employed status of platform workers creates significant gaps in **social protection** coverage. Self-employed are covered by health and care policies, family benefits and social assistance, and can opt into other social protection systems, but do so to an extremely limited extent. Less than 1% of primarily self-employed apply for statutory pension and only about 2% pay into the unemployment insurance system.

Finally, the **lack of reliable data** (e.g. on the socio-economic profile of platform workers and their earnings) hinders the development of evidence-based policies as a response to the challenges faced.

2.1 Governmental initiatives

Given the ongoing evolution of platform work, the lack of data, and the complex challenges encompassing various policy areas, the German government's response has focussed on engaging stakeholders and setting up organisational structures to develop policies fostering platform work and ensuring good working conditions and social protection for platform workers.

Two hearings with platform operators and platform workers as well as two 'labs' bringing together interdisciplinary groups of experts were organised to gather information and develop policy recommendations. The results were shared with a cross-departmental project group within the BMAS that is led by the Policy Lab digital work and society. The group is currently evaluating different national policy responses, for example:

¹ The information contained in this section is based on the Host Country Discussion Paper by Olaf Deinert and Christoph Freudenberg.

² Ibidem.

- A reversal of the burden of proof concerning the classification of workers which applies if the employee presents evidence to support the existence of an employment relationship;
- Regulations for platforms, for example on health and safety and notice periods;
- A requirement for platforms to contribute to the pension insurance of platform workers; and
- Reporting and information obligations for platforms.

The BMAS also sees the need to complement national actions with respective EU-wide actions.

2.2 Social partner initiatives

Several actions have been taken by Germany's social partners to improve working conditions.

The website [Faircrowdwork.org](https://www.faircrowdwork.org) is operated by trade unions and provides information on working conditions on different platforms. Information is collected from platform workers through questionnaires covering payment, communication, work evaluation and tasks. Furthermore, the website provides legal reviews of platforms' terms and conditions.

A **Crowdsourcing Code of Conduct (CoC)** was developed jointly by several platform companies and the metal workers union IG Metall. Platforms signing the code commit themselves inter alia to fair payment of workers, clear, transparent and legal tasks and work processes, open communication and constructive feedback, and the protection of platform workers' privacy and personal data.

Moreover, an **Ombuds Office** was established to mediate disputes between platforms that signed the CoC and their workers. The Ombuds Office is a bipartite institution consisting of one crowdworker and one trade unions representative, one representative of a platform, one of the German Crowdsourcing Association, and one neutral chair. Platforms and platform workers can submit complaints. The Ombuds Office discusses the disputes and issues recommendations. Platforms consistently ignoring recommendations can be excluded from the CoC.

Disputes mediated by the Office relate to platforms' refusal to pay for completed tasks, unclarity regarding task descriptions and work processes, and the closure of platform workers' accounts. Since 2017, the Office has resolved over 40 disputes, mostly by consensus.

The key challenges and success factors of social partners initiatives are summarised in the table below.

Table 1. Key challenges and success factors of social partners initiatives in Germany

Challenges	Success factors
<ul style="list-style-type: none"> • The lack of a robust evidence base is hindering policy making. • Participation in the Code of Conduct is voluntary and most international platforms chose not to do so. Therefore, only a small share of platform workers is covered by it. • From the perspective of the trade unions, the results of the Ombuds 	<ul style="list-style-type: none"> • The experience from the Ombuds Office shows that many disputes are on minor issues (e.g. misunderstandings, unclear communication) and can easily be resolved by a respected arbiter. • Social partner initiatives show that fast, targeted, and effective action can be taken by non-governmental actors to

Challenges

Office are not always fully satisfactory.
The union would prefer stronger legal rights, for example basic procedural rights for all platform workers.

Success factors

improve the working conditions of platform workers.

After: *Host Country Discussion Paper* and presentations prepared for the Peer Review

3 Key issues discussed

3.1 Shared understanding of platform work

European countries face similar challenges and opportunities regarding platform work. As stated by participants during the Peer Review **a shared understanding on the concept of platform work is missing**. There is, for instance, no jointly applied definition of platform work within the EU.

While platform workers possess the same rights as other workers, practice shows that platform workers are more vulnerable. This is mainly due to different employment status applied to platform workers in different countries (see subsection 3.2), the varying social protection schemes that are connected with their status, and the lack of collective agreements and social dialogue.

An **EU-wide policy framework for platform work** was regarded by participants as a necessity for developing a sustainable, fair and competitive platform economy in Europe. Defining what platform work is and developing a joint understanding of the concept should be the starting point for building a harmonised EU policy framework of platform work. This is to be achieved by continued dialogue between national and EU-level policymakers and stakeholders of the platform economy (platform companies, workers, trade unions and employer organisations).

3.2 The employment status of platform workers

A central challenge across the EU/EEA is the often unclear employment status attributed to platform workers. Questions discussed during the Peer Review ranged from whether platform workers are (and should be considered) employees, self-employed, or whether there should be a new, intermediary employment category. Regardless of their status, platform workers should, just as other workers, be protected by labour law and should have a safety net that assists them in difficult situations.

The legal situation of platform workers differs across the EU/EEA and the correct application of national law has often not yet been established through court rulings, creating confusion and legal uncertainty for platforms and service providers. The employment status also links to **working conditions, social protection, and collective bargaining rights** of platform workers (see the following subsections).

The Peer Review made clear that the **heterogeneity of platforms and platform work** may require a nuanced policy response. While platform workers may benefit from being classified as employees because of the advantages of higher social protection and the ability to collectively negotiate wages, most of them prefer the flexibility offered by a self-employed status and thus want to keep the status.

3.2.1 Enforcement of existing laws on employment status

Platform work should not be regarded as an entirely new type of employment. While the platform economy encompasses new and challenging aspects like the use of technology, other challenges related to platform work such as bogus self-employment are not limited to the platform economy and can be addressed through **enforcement of existing laws**.

In **Italy**, the application of employment law was extended in 2015 to self-employed whose work and performance (e.g. the time and place of the work) is organised by the client, unless there is a collective agreement explicitly stating otherwise. The law was not originally intended to protect platform workers. However, in 2020, the Italian supreme court relied on the law to rule in favour of a group of food-delivery couriers who had sued against the non-renewal of their contracts. This ruling entitled workers whose work and performance is organised by another party, including food-delivery couriers, to the same employment protection enjoyed by regular employees.

The **Spanish** labour inspectorate has been active in enforcing the correct application of employment status in the platform economy. The inspectorate has developed specific procedures and trainings for inspectors and implemented regional pilot programmes. Primarily, the inspectorate tackles bogus self-employment by suing platforms for the misclassification of workers. Several court cases were filed over the employment status of food delivery couriers, most of them finding that the couriers were wrongly classified as self-employed. Part of the court's reasoning was that couriers are the public face of the company and that customers do not contract individual couriers, but the platform. In other words, the classification of couriers as employees was partially because they represent the 'brand' of the platform.

In **France**, workers are legally considered as employees if they are subordinated to the employers' powers of direction, control, and sanction. These conditions apply to platform workers. In two recent court cases on the employment status of delivery drivers and independent taxi drivers, the French supreme court ruled that platform workers hired as independent workers were indeed employees, based on a broad reading of the concept of legal subordination. The rulings only apply to the parties directly involved. There is no automatic effect on all other workers in similar situations, not even on individuals working for the same platform in the same function.

Latvia's enforcement efforts with regards to the platform economy focus on the reduction of the shadow economy. To this end, the Latvian government focusses on better detection, tighter regulation, and tax reforms.

In **Germany** it is difficult for platform workers to be recognised as employees. So far, there have been only two court cases, but in both rulings the employee status was denied. Platform workers bear the burden of proof to show that they fulfil all conditions to be considered as employees (although a reversal of the burden of proof is currently being considered). They also must litigate on their own and for each individual case. Trade unions and other organisations are not allowed to sue on behalf of platform workers but there is a possibility for class action lawsuits from workers in similar situations.

One policy option to strengthen enforcement is hence the **reversal of the burden of proof** in the classification of employment relations. This means that platform companies would have to show that no employment relation exists, rather than self-employed platform workers suing to be recognised as employees.

3.2.2 Possibility of a third, intermediary employment status

Some countries have introduced a third employment category providing an intermediary level of protection.

Within **Spanish** law, there is a subcategory of self-employed called TRADE (*"Trabajador autónomo económicamente dependiente"*). Self-employed can be categorised as TRADE if they work in an *'habitual, personal, direct and predominant manner for a natural or legal person, called a client, on whom they depend economically to receive at least 75 per cent of their income'*. TRADEs do not have significantly stronger protections compared to self-employed, but they have the right to form associations to negotiate professional interest agreements. However, the collective bargaining rights of TRADEs are also restricted by the European competition law. The application of this model consequently is limited. Partially due to the only minor differences in the rights of self-employed and TRADE only a fraction of all self-employed have registered as TRADE.

Many other European countries do not have a third employment status category and some do not see the need for developing it in the future either. For example, Belgium and Finland oppose the idea of an intermediary employment status because, in their view, it would only further confuse the situation.

3.3 Social protection and working conditions

3.3.1 Adapting social protection schemes

Europe faces a challenge to develop a flexible policy framework, which is safeguarding worker's rights and providing adequate social protection, and at the same time promoting a sustainable platform economy that fosters innovation.

A lack of social protection is seen as the main risk of platform work in Germany according to a recent survey of gig workers³. Regardless of the employment status a safety net must be provided to platform workers that protects them against unemployment and assists in difficult situations. The main obstacles concern the access to social protection systems as well as the coverage of the schemes. Obligatory payments of social contributions of both platforms and platform workers, even in case of supplementary income, should be envisaged to contribute to the development of decent jobs.

Moreover, the frequently cross-border character of platform work requires coordination across social welfare regimes within the EU. Access to social protection systems in the respective EU countries should be provided. Although there is a trend across the Member States to extend the coverage of the schemes, actions taken in adapting the schemes are scattered and fragmented:

- In **Sweden**, social security fees are the same for employees and self-employed.
- A proposal to equalise social insurance payment rates between employed and self-employed is discussed in **Ireland**.
- Ireland, as well as **Portugal**, extended the scheme for self-employed (see Box 1).
- An obligatory pension insurance scheme for self-employed is currently discussed in **Germany**.

Box 1: Extension of social protection self-employed in Portugal

Portugal has worked step-by-step to extend its social protection system to cover self-employed.

In 2012, unemployment benefits were extended to 'economically dependent independent workers' and 'independent workers with entrepreneurial activity who are members of statutory bodies of collective persons'.

In 2018, the contribution regime of the public social security system for self-employed was revised which effectively included independent workers in the public social security scheme. Accordingly, all independent workers (with very few exceptions) must pay a contribution of 21.4%, which entitles them to maternity, paternity, unemployment benefits and sick leave. Furthermore, the higher contribution rate also increases the level of their old age pension.

Source: *Peer Country Comments Paper – Portugal*

At EU-level a digital account of workers including automated reporting for tax collection is discussed. A fixed percentage of remuneration could hence be dedicated to social security (see Digital Single Window, Box 3).

3.3.2 Improving working conditions and upskilling

Participants of the Peer Review saw a need for action to guarantee fair and equal treatment regarding working conditions of platform workers. EU-wide standards and transparency on working conditions, and communication and information provision could help overcome the challenges faced. Moreover, awareness raising about existing

³ See Host Country Discussion Paper by Olaf Deinert and Christoph Freudenberg.

provisions as well as guidance for platform workers on their rights is seen as an important step towards better conditions for these workers.

There are fragmented initiatives taken within some EU Member States to improve working conditions and offer trainings to platform workers. One policy goal formulated by platform companies was to enable the upskilling of self-employed. Doing so would help ensure that workers do not get locked into low-skilled jobs but use platform economy as a stepping stone into better employment.

3.4 Collective agreements and social dialogue

Collective agreements and social dialogue can help improving working conditions of platform workers. A united voice of platform workers is counterweighting the dominance of (large) platforms. This is of specific importance since legislation is a slow-moving process and individual litigation difficult to pursue.

Examples of successful social partner initiatives include the Code of Conduct and the Ombuds Office in **Germany** (Section 2). Box 2 presents information on collective agreements in **Denmark**. In **Norway**, trade unions successfully mobilised a strike against an online food delivery service. This was possible because the platform workers of this company were classified as employees. The strike was organised by the transport sector union and received vocal support by the Norwegian Confederation of Trade Unions, politicians, and major media outlets. The negotiated agreement included a slight increase in the hourly wage, reimbursement for equipment, wage supplement during the winter and a collectively agreed early retirement pension. While the agreement has been celebrated as a success, the same platform company as well as others have been hiring self-employed couriers who are not covered by the agreement.

Box 2: Collective agreements between workers and platforms in Denmark

Danish trade unions have signed several agreements with platform companies:

- The United Federation of Danish Workers (3F) signed an agreement with the cleaning services platform Hilfr. The agreement is innovative in so far that it allows individuals who worked more than 100 hours for the platform to decide whether they want to be employees or self-employed. Those having worked more than 100 hours also receive a minimum hourly wage, an hourly welfare supplement and accrue social rights to pensions, holiday pay and sick pay. However, an evaluation has shown that only 1 in 7 workers of the platform had worked for 100 hours or more and was hence covered by the agreement.
- Vocali, a translation services platform, has signed an agreement with the trade union HK covering regular employees as well as a special agreement covering those who are not employees.
- The freelance and consulting platform Worksome signed an agreement with several trade unions representing workers with higher education. Under the agreement, the unions are involved in reviewing the terms and conditions offered to platform workers to increase transparency. The agreement is therefore not a traditional collective agreement setting e.g. minimum wages but rather a partnership agreement akin to the Crowdfunder Code of Conduct in Germany.

Source: *Peer Country Comments Paper – Denmark*

At the company level, works councils can help improve the dialogue between platforms and platform workers. European level works councils (EWCs) could be an option for workers representation in platforms active in multiple Member States.

Organising social dialogue in the platform economy however is a challenging task. Platform workers and companies have rarely joined collective organisations and EU competition law currently prevents self-employed from collectively negotiating wages.

3.4.1 Challenges to organise workers and platforms

Evidence from **Denmark** shows that platform companies often do not see themselves as employers and are unwilling to join employers' organisations. Similarly, platforms in **Ireland** have not joined the main employer federations.

Platform workers are difficult to organise as well. Their often marginal or temporary employment may make them less willing to join a union. Furthermore, platforms often do not have physical spaces where workers meet and communicate. This makes it difficult to find platform workers and organise them for joint actions.

One possibility to encourage platforms to organise and engage in social dialogue is to make an explicit alternative to legislated regimes. For example, **Italian** employment protection law for dependent workers (see subsection 3.1.3) allows platforms to opt-out of the protection regime if they sign collective agreements. This created strong pressures on platforms engaged in last-mile delivery in Italy to organise.

3.4.2 Social dialogue and EU competition law

The central challenge regarding social dialogue in the platform economy is that European competition law prohibits self-employed to collectively negotiate better remuneration (and other working conditions). Consequently, self-employed platform workers cannot collectively negotiate their remuneration with platforms or engage in collective actions like strikes. Moreover, minimum wages do not apply to them. While there are some agreements involving self-employed platform workers for example in **Denmark**, these agreements are entirely voluntary. This contradicts to the strong tradition of regulating labour markets primarily through collective agreements especially in Nordic countries like **Denmark** and **Norway**.

The tension between competition law and platform workers' collective bargaining rights and the resulting need for reforms was widely acknowledged by participants of the Peer Review. The European Commission informed about its announced initiative to ensure that EU competition law is not an obstacle to collective bargaining by solo self-employed, such as platform workers..

3.5 Data collection, registration, and reporting

3.5.1 Improving data collection

Understanding the extent and nature of challenges arising from platform work is key for the development of evidence-based policies. Unfortunately, reliable and comprehensive data on the number of platform workers, their socio-economic characteristics as well as their income and working conditions is not yet available. To some extent this is caused by the before mentioned lack of clarity and commonly accepted concept and definition of platform work. For example, survey respondents who sell goods via online platforms may misinterpret themselves as platform workers, leading to an overestimation of the size of the platform economy.⁴ Improving the collection of (comparative) data necessitates the development of common definitions and concepts (see subsection 3.1.2.).

High-quality survey data was described as the golden standard to learn more about the people engaged in platform work. In addition, data on the income of platforms and platform workers is required to collect taxes and social insurance contributions.

⁴ The information contained in this section is based on the Host Country Discussion Paper by Olaf Deinert and Christoph Freudenberg, p.3.

Obligatory reporting mechanisms and registration requirements for platforms were stressed during discussions (see the following subsection).

3.5.2 Reporting and registration requirements for platforms

Platforms collect a large volume of data including information on the tasks carried out and the remuneration paid to workers. Algorithms based on this data are used to manage platform workers and at times discriminating them based on patterns in past performance.

Providing access to the data collected by platforms could help public authorities in their policy making and prevent tax avoidance and social contributions (social fraud). However, in line with GDPR rules personal data of platform workers must be protected. Moreover, reporting requirements for platforms should be lean and technically feasible. One possibility for a simple reporting system for platform companies is the Digital Single Window for Income Data from Platform Work (see Box 3).

Box 3: A Digital Single Window within the EU

The Digital Single Window could facilitate automating the reporting of income data from platforms. It would collect income data from platforms and forward it to the relevant tax and social security authorities in the Member States for the collection of taxes and contributions in accordance with national law. A Digital Single Window would offer three advantages:

- A common approach would ease pressure on foreign platforms to comply with reporting requirements.
- Developing a single solution allows Member States to pool resources for the development of a sophisticated and automated interface-based reporting solution with low compliance and maintenance costs.
- The single window would reduce compliance costs and bureaucratic burdens for platforms operating across borders. This could also encourage small platforms active in one country to expand their business to other countries.

Nevertheless, there are challenges faced in setting up such a system. Member States have different tax laws and social contribution rules in place (see also subsection 3.1). Second, the sharing of tax data is sensitive from a data protection perspective. Strong safeguards must be in place to prevent data breaches. Third, despite its benefits, the Digital Single Window adds another layer of bureaucracy since it would not replace national tax and social insurance reporting systems.

Source: *DG EMPL (2020). A digital single window for income data from platform work*

Norway has an arrangement on the automatic reporting of user income data to tax authorities with an online vacation rental marketplace. The use of similar reporting rules for other types of platforms is currently being discussed.

In 2016 **Belgium** introduced a legislative framework⁵ allowing platforms to voluntarily apply for accreditation with the Belgian authorities. The goal of the law was to stimulate growth in the platform economy and to combat social fraud and undeclared work. Under this law, platform workers working for accredited platforms who earn less than an annual threshold⁶ and who fulfil certain conditions, pay a significantly reduced tax rate and no social insurance contributions. This makes it more attractive for platform workers to work with accredited platforms. The platforms are required to withhold taxes from their

⁵ The law was revised in 2018, but the revision was annulled by the Constitutional Court in April 2020. From 2021 onwards, the original law described here will re-enter into force. For more information, see the Peer Country Comments Paper – Belgium.

⁶ The threshold is indexed. In 2020, the limit was EUR 6,340.

payments to platform workers and to pass on relevant information to the tax authorities. Even though accreditation is not a prerequisite for entering the Belgian market, by July 2020 about 70 domestic and foreign platforms have been accredited. A similar but EU-wide regulation about registration of platform companies could be envisaged.

4. Conclusions and next steps

The following conclusions and priorities for the next steps emerged from the Peer Review:

- The challenges related to platform work are similar across all EU/EEA countries. Therefore, through working together there is an opportunity to create EU wide solutions, which can be adapted as necessary to national implementation mechanisms and take into account the heterogeneity of both, the platform economy as well as the Member State labour market traditions.
- There is a broad consensus not only between policy makers and researchers, but also with European platform owners about the importance of decent working conditions for platform workers, which provides a good basis for future policy initiatives at national and EU-level.
- A shared understanding on the concept of the platform economy – including a jointly applied definition of platform work – could be the starting point for building a harmonised EU policy framework of platform work.

