

## WORKSHOP ON PROTECTING WORKERS' HEALTH AND SAFETY IN THE ONLINE PLATFORM ECONOMY

24 May 2018, Brussels

### 1 Introduction

Work intermediated by digital platforms is rapidly growing in importance and at the same time posing significant challenges for workers' health and safety. This was identified in the recent European Agency for Safety and Health at Work (EU-OSHA) 'Foresight on new and emerging occupational safety and health risks associated with information and communications technologies and work locations by 2025' <sup>(1)</sup>.

A follow-up study was carried out to get an overview of regulatory and policy developments in the EU linked to the online platform economy and its expected impact on occupational safety and health (OSH). The study was conducted by Professor Dr Sacha Garben, Permanent Professor of EU law at the European Legal Studies Department of the College of Europe. The resulting report, '[Regulating the occupational safety and health impact of the online platform economy](#)', <sup>(2)</sup> was published on 5 November 2017. The study was welcomed by EU-OSHA's stakeholders as a timely contribution to the ongoing debate and action at European and national levels regarding the challenges posed by the rapid emergence of online platforms and growth in related jobs. Examples of recent developments include changes in legislation and regulations, case law and initiatives by social partners.

As a follow-up to the study, a workshop was held in Brussels on 24 May 2018. The aim of the workshop was to present the findings of the study, including some of the more important initiatives developed in this area across Europe, and to discuss the OSH risks that may result from online platform work and the challenges that the online economy presents for current regulatory approaches on OSH. The workshop also presented an opportunity to exchange views and learn from others' experiences.

### 2 PLENARY

#### Welcome

Karel Van Damme, MD, General Advisor, Belgian Federal Public Service Employment, Work and Social Dialogue/William Cockburn, Head of Prevention and Research Unit, EU-OSHA/Maria-Teresa Moitinho de Almeida, Senior Expert — Policy Adviser to the Director in the Area of Occupational Safety and Health, DG EMPL-B3/Francisco Jesus Alvarez Hidalgo, Policy Officer, DG EMPL-B3

#### The future of work

Nicholas Costello, Deputy Head of Unit, DG EMPL, European Commission

In his introductory presentation, Mr Nicholas Costello acknowledged the fundamental transformation of the world of work as a result of the combined effect of digitalisation, globalisation and the growth of the service sector.

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<sup>(1)</sup> <https://osha.europa.eu/en/oshwiki/foresight-new-and-emerging-occupational-safety-and-health-risks-associated-information-and-0>

<sup>(2)</sup> <https://osha.europa.eu/en/tools-and-publications/publications/regulating-occupational-safety-and-health-impact-online-platform/view>

The platform economy creates jobs and new opportunities with more flexibility, or an improved work-life balance, and of course supplementary income. But at the same time it creates new challenges: how can we reinforce our labour law, social protection, labour market institutions, fiscal policies, and education and training to stand the test of the digital economy?

Mr Costello subsequently outlined EU action to tackle the challenges related to the impact of digitalisation on the labour market, which includes the Communication on artificial intelligence (AI) and robotics <sup>(3)</sup>. This action also covers labour market aspects of the new technologies, such as job creation, smooth labour market transitions and the need for digital skills; establishing a High Level Expert Group on the impact of digitalisation on the labour market, which will provide advice on policy responses to the challenges related to the digitalisation of work; and the Employment and Social Developments in Europe (ESDE) Annual Review 2018 <sup>(4)</sup>, which dedicates five chapters to the topic: new forms of work, skills and education, social protection, inequality and social dialogue.

The European Pillar of Social Rights constitutes the broader policy framework for action in the area of social protection and basic rights, which include the right to fair working conditions. An example of concrete actions in this area is the proposal for a Directive on transparent and predictable working conditions in the EU, complementing and modernising existing obligations to inform workers of their working conditions and setting minimum standards to ensure that all workers, including those on atypical contracts, benefit from more predictability and clarity regarding their working conditions <sup>(5)</sup>.

Finally, Mr Costello presented another initiative under the European Pillar of Social Rights: the Commission Proposal for an EU Council Recommendation on access to social protection for workers and the self-employed <sup>(6)</sup>. This would allow non-standard workers and the self-employed to adhere to social security schemes. The proposal covers unemployment, sickness and health care, maternity and paternity, accidents at work and occupational diseases, disability and old-age pensions.

## Regulating the OSH impact of the online platform economy

Professor Dr Sacha Garben, European Legal Studies Department, College of Europe, Belgium

Professor Dr Sacha Garben started her presentation by clarifying some key concepts and definitions. First of all, she pointed out, there is no single definition of 'online platform economy'. In the context of the ongoing digitalisation of society and the economy, online platforms are central: they provide online spaces for social/economic interaction. The 'online platform economy' is the entire economy involving these online platforms. It has to be differentiated from the 'collaborative economy', which focuses only on the offering of temporary usage of goods or services, and from the 'sharing economy', which is about not-for-profit exchanges (for example carpooling). Online platforms can affect the provision of labour through organising/intermediating the sale/delivery/provision of goods/services.

Online platform work comprises a great variety of working arrangements: (hyper-)temporary/permanent, informal/professional, generally 'atypical' in some way; different types of jobs, such as low/high skilled, manual/digital; and many forms of non-standard employment, such as crowd work, piece work, gig/on-demand work and freelance work as main income.

Online platform work provides a regulatory opportunity for addressing undeclared work, but at the same time the online platform economy also presents some regulatory challenges: online platforms are a 'moving target', it is difficult to fit activities into pre-existing regulatory categories and platforms can employ fait accompli and regulation-avoiding strategies.

As the application of OSH regulations requires an employment relationship, the question is: to what extent does/should employment law, including OSH, apply to platform work? Features of triangularity, temporariness, informality, autonomy and mobility make it more difficult to establish 'employment relationship'.

<sup>(3)</sup> <https://ec.europa.eu/digital-single-market/en/news/communication-artificial-intelligence-europe>

<sup>(4)</sup> [http://ec.europa.eu/employment\\_social/empl\\_portal/publications/Esde2018/index.html](http://ec.europa.eu/employment_social/empl_portal/publications/Esde2018/index.html)

<sup>(5)</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52017PC0797>

<sup>(6)</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2018:0132:FIN>

Possible regulatory responses include stepping up enforcement of existing rules, extending the application of 'employment', devising a new category of 'independent worker' or a presumption of employment, or providing specific protection.

Concerning OSH implications of online platform work, all the risks of the work activities themselves are present (for example risks in cleaning, transport, construction, information and communication technology work), but they are likely to be aggravated by the specific features of online platform work (lower average age, lower training levels, loss of the protective effect of a common workplace, time pressure and rapid pace of work). Continuous real-time evaluation and performance rating induces stress. Manual online platform work often takes place in private settings where there is a lack of awareness of OSH standards. In addition, general employment law may not apply, resulting in job and income insecurity, and OSH standards, occupational health care, health surveillance and enforcement may be inapplicable.

Furthermore, Professor Garben presented examples of regulatory and policy initiatives in the Member States.

Professor Garben concluded that, while the online platform economy provides opportunities, it also raises many regulatory challenges connected to the dynamics of the sector, the strategies of the online platforms and the atypical features of online platform work. A central question is whether or not, in the light of the occupational risks connected to online platform work, (all) employment/OSH standards do/should apply to (all) online platform work, and if so, how to ensure this. Currently, both at EU and national level, this question is resolved mostly in a reactive, case-by-case manner by judiciaries, which is specific but also unpredictable and haphazard. Regulatory and policy responses have varied, with France being the most proactive. A common policy response may be warranted at European level.

Finally, she pointed out that further research is needed to explore and stay abreast of this fast-changing area.

## Platform work and OSH

Professor Ursula Huws, University of Hertfordshire, UK

In her introduction on the historical context, Professor Ursula Huws pointed out that the platform economy (she also uses the terms 'gig economy' and 'crowd work') is a convergence of several pre-existing trends linked with digitalisation and globalisation reaching critical mass. We can observe a high policy interest in the gig economy at the European level, as it is seen as a potential for job creation and an example of social innovation. The digital single market is considered essential for economic development and growth.

However, there are concerns from trade unions, consumer groups and government bodies about employment status and workers' rights, taxation, implications for social security systems, occupational health and safety, including psychosocial risks, and consumer safety.

Professor Huws then provided a working definition of 'crowd work', which was formulated as paid work managed via online platforms, recognising, however, that dimensions may be blurred. Based on a functional typology, she distinguished four types of platform work: high-skilled work carried out online (typically by creative professionals such as graphic designers, editors, software engineers) independent of location — managed via platforms (Upwork); low-skilled work carried out online (typically by people without formal qualifications in the tasks they are required to do) independent of location — managed via platforms (Clickworker or Amazon Mechanical Turk); offline work (driving or delivery work) carried out in public spaces — managed via platforms (Uber, Lyft, Deliveroo, and so on); and service work carried out in people's homes or other premises — managed via platforms (Taskrabbit, MeetACarpenter, and so on).

Subsequently, Professor Huws reported the results of a survey <sup>(7)</sup> carried out to measure the extent and characteristics of crowd work. The survey was piloted in the UK, and then carried out in Austria, Germany, Italy, the Netherlands, Sweden, and Switzerland.

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<sup>(7)</sup> Working in the European Gig Economy: Research Results from UK, Sweden, Germany, Austria, the Netherlands, Switzerland and Italy, Huws, U., Spencer, N.H., Syrdal, D.S. and Holt, K., 2017.  
<http://www.uni-europa.org/wp-content/uploads/2017/11/europeagigeconomy-longversionpdf.pdf>

The survey was complemented by in-depth qualitative interviews. Survey results include data on participation in the online economy as a source of income, people earning a living from crowd work, earnings from crowd work as a proportion of all income, gender and age of crowd workers by country, and comparison with non-crowd workers.

Regarding OSH risks, Professor Huws pointed out that, in addition to the physical risks, there is a variety of psychosocial risks linked to, *inter alia*, precariousness and unpredictability of work, work intensity, customer ratings, arbitrary suspension, abuse from customers, multiple jobs, exposure to crime and exposure to pornographic or violent media images.

Concluding her presentation, Professor Huws deliberated on the steps towards a new regulatory model for 21st-century labour markets. This should include ensuring universal coverage and clarification of the definitions of self-employment and subordinate employment. Workers' rights need to be clearly specified in relation to, *inter alia*, health and safety, insurance and legal liability, data protection, communications with employers/platforms, including rights to challenge arbitrary suspensions, and customer ratings. Adjustment of social security and tax systems is necessary to fit the new labour market realities.

## The implications of the Taylor review on safety and health at work

Shelley Frost, Executive Director — Policy, Institution of Occupational Safety and Health (IOSH), UK

Ms Shelley Frost started her presentation by summarising the recommendations of the so-called Taylor review <sup>(8)</sup>, a review of modern working practices published in July 2017. Those included good work for all, fairness for 'dependent contractors', national living wage, reducing non-wage costs of employment, good corporate governance by companies, developing skills to strengthen future prospects and a more proactive approach to workplace health.

Ms Frost then presented survey data on differences between permanent and non-permanent workers in terms of safety and health at work. According to the findings of a survey commissioned by IOSH<sup>9</sup>, gig economy workers, temps and workers on zero-hours contracts report fewer protections for their health and wellbeing at work than their permanent colleagues. Clearly, there is a gap between permanent and non-permanent workers regarding, for example, access to occupational health support, workplace health promotion, induction processes and personal protective equipment, although business leaders give a more favourable picture with respect to non-permanent workers. Survey data also show that many workers in the so-called gig economy do value the flexibility, but it is equally true that many feel exploited by zero-hour contracts, gig work and the growing tendency for companies to hire self-employed contractors.

In its response to the Taylor review, the UK Government set out proposals for reforms <sup>(10)</sup> that will ensure that millions of workers get new day-one rights with sick and holiday pay and that employment law and practices keep pace with modern ways of working created by rapid technological change. For the first time, the government will be accountable for good-quality work as well as the quantity of jobs.

However, Ms Frost pointed out that the government response was criticised for lack of action on gig economy workers' rights and not being specific enough on OSH aspects. Referring to the government's response to his review, Mr Taylor gave the government 4 out of 10 on its response so far.

Finally, Ms Frost summarised the IOSH position as asking the government to consider the very real health risks faced by workers outside permanent, full-time employment.

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<sup>(8)</sup> Good Work: The Taylor Review of Modern Working Practices. <https://www.gov.uk/government/publications/good-work-the-taylor-review-of-modern-working-practices>

<sup>(9)</sup> <https://www.iosh.co.uk/News/Survey-of-gig-workers-health-and-wellbeing.aspx>

<sup>(10)</sup> Good Work: A Response to the Taylor Review of Modern Working Practices, February 2018.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/679767/180206\\_BEIS\\_Good\\_Work\\_Report\\_Accessible\\_A4\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/679767/180206_BEIS_Good_Work_Report_Accessible_A4_.pdf)

## Nordic Future of Work initiative

Päivi Mattila-Wiro, Ministry of Health and Social Affairs, Finland

Ms Päivi Mattila-Wiro started her presentation with a brief introduction to the Nordic Future of Work initiative. The work started in 2016 and its aim is to identify challenges of future work and ideas on how to tackle these challenges, in particular those related to OSH and the operations of OSH authorities and labour inspection. The participating countries are Denmark, Iceland, Norway, Finland, and Sweden. The work so far has provided insight on specific national challenges and measures that have been taken to deal with them.

In addition to the trends pointed out by previous speakers, Ms Mattila-Wiro emphasised polarisation of work and work tasks linked to other forms of polarisation in societies. The role and responsibilities of the employer in relation to workers is blurring and a higher level of self-management is needed on the part of the worker. Risk assessment is shifted to the worker; the risks are individualised. In relation to OSH risks, Ms Mattila-Wiro mentioned that the physical and psychological wellbeing of employees is challenged by these new trends: we do not know what risks workers are facing when work is being done at anytime and anywhere. When there is a lack of an employment relationship, no social security and no occupational health care are provided to workers. Unpredictability of work, work intensity and low wages (precariousness, having to work more and more to make a living) cause stress. The question is also if workers have enough information and skills to manage and organise their work and assess all the risks. All this and the fast shifting and altering of employment relationships and platforms present numerous challenges for labour inspection. Whom, what and where to inspect? Who is responsible and to whom should demands be addressed? In addition, the definitions of employer, worker and workplace are blurred. What are the consequences for labour inspection?

Based on the work done by the Nordic Future of Work group, Ms Mattila-Wiro concluded that, to keep up with changes, labour inspection must become more diversified and flexible. Alternative inspection methodologies are needed as well as new tools. Targeted workplace inspections supplemented by promotion and information-sharing actions are required. The importance of data (on sick leave, work ability, occupational diseases) is also emphasised. More attention needs to be paid to employment conditions. The scope of labour inspection needs to be broadened to promote holistic worker wellbeing. More collaboration is needed between social partners and all stakeholders as well as within larger geographical areas — an expansion of inspection mandate over borders — to create a Nordic labour inspection.

## Has push come to shove? And how do we push back to achieve decent 'online platform' work?

Nancy Leppink, Branch Chief, Labour Administration, Labour Inspection and Occupational Safety and Health (LABADMIN/OSH), International Labour Organization (ILO)

Ms Nancy Leppink raised some important questions in her presentation: to meet the challenges of achieving decent work, do we need to rethink how we govern work? Are we regulating the 'right' things and at the 'right' levels, utilising the 'right' regulatory mechanisms and engaging the 'right' regulatory actors? Do regulatory actors have the 'right' roles and responsibilities?

The current focus is on regulating the employer-employee relationship. The historically difficult regulatory challenges result from rights and protections being tied to the employment relationship; as the number of rights and protections has increased, ways of avoiding that relationship have multiplied. This trend has been accelerated by financial crisis, continuing globalisation and advances in technology. Atypical work, such as piece work, home work and agency work, has been notoriously difficult to regulate and even more challenging in terms of enforcement. The online platform economy is not an exception: it is old business practices repackaged by technology and big data.

Ms Leppink proposed that regulatory efforts in relation to online platform work should focus first on the objectives of decent work — do no harm and support health — and the key mechanisms to achieve those objectives and improve OSH performance: prevent and control hazards and risks and provide information and training. Second, the focus should be on defining who owns the risks of online platform work: the platform, the sellers or the purchasers of labour/goods? Others?

Finally, Ms Leppink concluded that, to achieve decent work, one size may not fit all.

## Agnes Jongerius, MEP, Vice-Chair Committee on Employment and Social Affairs

Agnes Jongerius pointed out that online platform work is a relatively new area to be covered by OSH. There are many issues related to the protection of workers in the online platform economy but the key question is that of responsibility. Who is responsible for upholding standards? It seems that the obligation of the employer to ensure that working conditions and the working environment are safe and healthy is externalised in the online platform economy, with the risk transferred to individual workers.

She acknowledged that there is a huge variety of platforms and types of work performed and, consequently, working conditions vary significantly. However, in general, the more that workers are reliant on platform work for income, the less protected they are.

Subsequently, Ms Jongerius provided concrete examples of inadequacies in platform workers' protection and issues related to safety and health at work. She described the case of a Deliveroo worker who suffered a serious leg injury and was out of work for several months without pay. Deliveroo riders are currently classed as self-employed independent contractors and therefore lack rights for minimum wage, paid holidays, pensions, protection from discrimination and trade union rights<sup>(11)</sup>. Another example Ms Jongerius referred to is the case of self-employed people working in private homes, for example through Helpling, a platform for mediating cleaning services. The equipment, materials and work environment are provided by the client. The question is: can workers be expected to know the risks? Avoiding responsibility — the strategy that most platforms follow — is not a sustainable way of doing business, Ms Jongerius concluded. We can profit from the innovation only if we ensure workers' rights, including workers being covered by health and safety regulations.

The revision of the Written Statement Directive offers an opportunity for improving the situation, but the current proposal covers workers only if they use a single platform. However, many platform workers use several platforms.

Another problem is that at the moment it is up to workers to claim their rights. The recommendations of a study commissioned by the European Parliament's Employment and Social Affairs Committee<sup>(12)</sup> include *inter alia* 'reversing the burden of proof in determining the employee status, so that, in cases where platform workers challenge misclassification, it is incumbent upon employing entities to prove that persons carrying out paid work are *not* employees'.

In relation to transparency, the study recommends 'providing full and easily accessible information to all workers, including those engaged in platform-mediated work, concerning their legal rights and entitlements'.

## 3 PARALLEL SESSIONS

### Parallel session 1: Social partner initiatives

- Emerging patterns of collective representation and voice in the platform economy/Kurt Vandaele, Senior Researcher, European Trade Union Institute (ETUI)
- Trade union initiatives aiming to protect online platform workers/Peter Ahernfeldt Schrøder, Business Policy Adviser, Danish Confederation of Trade Unions

<sup>(11)</sup> In November 2017, the Central Arbitration Committee (CAC) ruled that the food delivery app's couriers are self-employed, rather than workers, dismissing a challenge from the Independent Workers of Great Britain (IWGB) union. Three weeks before the case was heard by the CAC, Deliveroo inserted a new substitution clause in the contracts of all workers, granting riders the 'right' to allow anyone else to do their job in their place. As a result, in its ruling, the CAC, which oversees collective bargaining law, concluded that Deliveroo couriers are self-employed because they have a right to ask a substitute to perform a job for them. By law, anyone with the right to do this is classed as self-employed, and self-employed workers are not entitled to collective bargaining rights.

<sup>(12)</sup> The Social Protection of Workers in the Platform Economy, EU, 2017.  
[http://www.europarl.europa.eu/RegData/etudes/STUD/2017/614184/IPOL\\_STU\(2017\)614184\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/614184/IPOL_STU(2017)614184_EN.pdf)

- Online platforms, labour market intermediaries and the changing world of work/Denis Pennel, Managing Director, World Employment Confederation (WEC) (sectoral social dialogue on temporary work)
- ***Emerging patterns of collective representation and voice in the platform economy***

Dr Kurt Vandaele, Senior Researcher, European Trade Union Institute (ETUI)

Dr Kurt Vandaele presented a mapping of various examples and an analysis of worker representation in the platform economy in Western European countries based on an ETUI Working Paper <sup>(13)</sup>. There are various emerging patterns of collective representation among online platform workers, both high-skilled crowd workers and on-demand platform workers, including grass-roots unions, union-affiliated guilds, mainstream or long-standing unions, quasi-unions, and worker-led platform cooperatives. Grass-root unions and union-affiliated guilds mainly mobilise, organise and represent on-demand platform workers, whereas quasi-unions and worker-led platform cooperatives can also organise workers with high-skilled jobs or freelancers. Platform cooperatives replicate the model of digital labour platforms without exploiting the participating workers. They are set up by workers or unions, with worker-members owning the platform and participating in it. Such platforms are, however, not present in Europe so far.

In general, trade union density continues to decline across Europe, but the new technological fix of the platform economy seems to generate new forms of collective representation, shaped by the dynamics in the platform economy. Some unions have opened up membership to platform workers and other forms of self-employment, and some are willing to represent platform workers' interests and needs beyond their actual member base.

Dr Vandaele concluded that the platform economy created 'new' forms of collective representation: platform unionism and freelancer unionism. There is mutual leaning but also possible tensions between new and old forms of collective representation — digital activism versus bureaucratic structures of traditional unions; taking risks versus being opportunistic — and tensions caused by organising in the same membership domain. Finally, he pointed out that there is no uniform pattern across countries for emerging forms of collective representation in the platform economy.

- ***Trade union initiatives aiming to protect online platform workers***

Peter Ahernfeldt Schrøder, Business Policy Adviser, Danish Confederation of Trade Unions

Mr Peter Schrøder presented the landmark agreement between the Danish cleaning services digital platform Hilfr and the United Federation of Danish Workers, which is a ground-breaking step towards safeguarding the rights of online workers, guaranteeing the same conditions as elsewhere on the Danish labour market. The 1-year 'trial' agreement — in force from 1 August 2018 — covers pensions and sickness benefits, holiday pay and collectively agreed wages.

One of the success factors of the agreement was the shared interest in regulating the conditions on which the platform operates, which brought together the platform and workers' representatives. The platform recognised that the barrier to using its services is a lack of trust. The agreement is raising the bar for the gig economy and showing how all can benefit from new technology without undermining labour rights and working conditions.

However, Peter Schrøder emphasised that the agreement is underpinned by the Danish model, based on collective bargaining, principles of flexicurity, ease of hiring and firing, good social security, free education and life-long learning.

The framework for the agreement was created by the Danish Government, aiming to ensure fair competition by creating the same rules for all (for example in relation to taxation). An agreement was reached in the Danish Parliament on automatic sharing of information by platforms to tax authorities.

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<sup>(13)</sup> Will Trade Unions Survive in the Platform Economy? Emerging Patterns of Platform Workers' Collective Voice and Representation in Europe, Vandaele, K., ETUI, 2018. <https://www.etui.org/Publications2/Working-Papers/Will-trade-unions-survive-in-the-platform-economy-Emerging-patterns-of-platform-workers-collective-voice-and-representation-in-Europe>

After 12 months, a revision and assessment of the agreement will be carried out and there are plans to include future training and education, and safety and health at work.

- **Online platforms, labour market intermediaries and the changing world of work**

Denis Pennel, Managing Director, World Employment Confederation (WEC) (Sectoral Social Dialogue on temporary work)

Mr Denis Pennel presented a joint project conducted by WEC-Europe and UNI Europa to better understand the development of online talent platforms and how they compare with agency work. The scope and nature of work and working conditions, regulatory frameworks and contribution to better functioning labour markets were compared. Research was hampered by the limited availability of data and empirical evidence and the lack of common definitions.

Mr Pennel briefly summarised the key findings of the project. The online talent platform economy is small in size but growing rapidly, is highly heterogeneous and has a substantial impact on some sectors. The temporary agency work sector is larger and less heterogeneous.

In terms of regulations for the online talent platform economy, there is no specific framework in most countries and therefore the existing regulations apply. This situation has left many questions unanswered (taxation, completion, work, and so on). Policy-making is still in the initial stages and the debate on a need for an EU approach is unsettled. It is also still unclear how platforms adjust to different national regulatory frameworks. On the other hand, temporary agency work is regulated by Directive 2008/104/EC and also governed by national regulations and ILO Conventions (C181). Directive 2008/104/EC has played a role in setting EU-wide minimum standards in the temporary agency work sector.

Concerning social security, Mr Pennel pointed out that social security schemes are usually ill-adapted to new forms of work. Access is typically linked to employment status (rights and obligations). This also applies to the online talent platform economy, where access to social protection presents major challenges, as the employment status of workers is often unclear — workers tend to be classified as self-employed. In contrast, temporary agency workers' access to social protection is ensured.

Regarding training and skills development, access to training in the online talent platform economy is nearly non-existent, whereas in the temporary agency work sector it is well developed under the impetus of social partners.

Analysing labour market participation, transitions and impact on undeclared and informal work, it can be said that both online talent platforms and temporary work agencies can facilitate labour market participation and transitions and help reduce undeclared and informal work by offering options for flexible work. However, concerning online talent platforms, there is little evidence in this respect (either positive or negative). For temporary work agencies, the evidence is also fragmented and focused on the national context.

Mr Pennel concluded that common definitions and conceptualisations for the platform economy are necessary. Further analysis, continued monitoring and data collection are needed concerning *inter alia* the nature of work, actors involved, reactions to developments and labour market effects. Greater transparency is required. Setting Europe-wide minimum standards in the platform economy would be challenging, as it requires finding a balance between supporting innovation and addressing risks. Overall, an exchange of information and collaboration between platforms, governments, workers and social partners would be helpful.

## Parallel session 2: Examples of initiatives in the Member States

- Initiatives and activities in Germany/Dr Anita Tisch, Federal Institute for Occupational Safety and Health (BAuA), Germany
- Finnish approach/Liisa Hakala, Ministry of Health and Social Affairs, Finland

- Collaborating with gig companies/Professor Dr Steven Dhondt, TNO, Netherlands
- Online platform economy workers: an IGAS perspective/Louis-Charles Viossat, Inspecteur général des affaires sociales - Président du collège Protection Sociale; Nicolas Amar, Inspection générale des affaires sociales (IGAS), France
- Make yourself visible! Campaign/Ángeles de Vicente Abad, National Institute for Safety, Health and Wellbeing at Work (INSSBT), Spain

### • **Initiatives and activities in Germany**

Dr Anita Tisch, Federal Institute for Occupational Safety and Health (BAuA), Germany

Dr Anita Tisch presented German initiatives related to the online platform economy. In Germany, a consultation process was launched in April 2015 — a broad public dialogue with experts from social partners, associations, businesses and academia, and members of the public. The consultation culminated in the publication of a White Paper on 'Work 4.0'. The process started when the Ministry of Labour (BMAS) released a Green Paper in 2014 setting out the guiding questions. This was followed by expert workshops, funding of research, and consultation with companies, social partners and statutory insurers.

Research was carried out on the online platform economy in German-speaking countries, the use of crowd work by companies, and the socioeconomic characteristics and motivations of crowd workers. Dr Anita Tisch presented some of the findings of the research. A total of 65 % of crowd workers were male and younger than the average working population (< 30 years of age). They were most often single (63 %) and highly educated (41 % with a university degree). The most important reasons to undertake crowd work were flexibility in terms of time, space and content. For the majority, crowd work is a side job: approximately 40 % of crowd workers are in education and nearly 40 % are employed.

Dr Anita Tisch then presented the Code of Conduct and guidelines for fair crowdsourcing/crowd working signed in March 2017 by eight Germany-based online platforms. The code was supported by the German Crowdsourcing Association, and the Crowdsourcing Project of the German Metalworkers' Union (IG Metall) provided input on the development of the code. The code sets out the following conditions: fair pay, motivating work and respectful interactions, clear definitions of tasks and schedules, freedom and flexibility, constructive feedback and open communication, regulated acceptance and rework processes, data protection and privacy. The ombudsman's office will be in charge of supervising the implementation of the code.

### • **Finnish approach**

Liisa Hakala, Ministry of Health and Social Affairs, Finland

Ms Liisa Hakala introduced the Finnish approach, which focuses on a socially sustainable society, wellbeing (generally and at the workplace), increased inclusion and positive economic development (Ministry of Social Affairs and Health: 'everybody has the right to choose his earnings'). A government programme has been initiated on the future of platform work and AI key projects. The programme is explained in detail in a two-part government report. The first part, 'A shared understanding of the transformation of work' <sup>(14)</sup>, was published in June 2017 and the second part, 'The meaning of the transformation of work: policy measures', is expected to be published in summer 2018. The key questions discussed in the report are: who will be the labour force/who is included? How will work be defined in the context of the changing relations? Also included are questions related to the social security system, basic income and, for example, if there will be sufficient tax income. OSH and how to ensure OSH have a major role in this.

Finally Ms Liisa Hakala presented the new strategy for social and health policy in Finland launched in autumn 2017. Policies for the work environment and wellbeing at work will be updated accordingly, including new forms of work.

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<sup>(14)</sup> <http://urn.fi/URN:ISBN:978-952-287-442-9>

- ***Collaborating with gig companies***

Professor Dr Steven Dhondt, TNO, Netherlands

Professor Dr Steven Dhondt presented the project 'Collaborating via the platform — case study on implications for work and organisation in the Netherlands'. The key question regarding platform predictions is whether or not they lead to opportunities or challenges. An overview of the Dutch platform economy is given in figures — for example, only 4.5 % of the self-employed use platforms for work. Also, the dependency rate of the self-employed on the platform is quite low (7 % are 100 % dependent). Nevertheless, these low percentages are increasing. Questions are triggered related to control as well as to regulations: how powerless is the platform worker? What control is necessary? What instruments are there to control one's own fate and empowerment? Do we need regulation or innovation? For example, certain platforms deliberately ignore rules but others are 'forced' to ignore rules by a lack of enforcement. Professor Steven Dhondt concluded that collective action is required; workers themselves have tools in their hands. The OSH debate should also include innovation. The new technology and institutional context may ask for 'social innovation'.

- ***Online platform economy workers: an IGAS perspective***

Louis-Charles Viossat, Inspecteur général des affaires sociales - Président du collège Protection Sociale; Nicolas Amar, Inspection générale des affaires sociales (IGAS), France

Louis-Charles Viossat and Nicolas Amar presented initiatives by IGAS. IGAS is a policy evaluation, advice, audit and inspection unit working for the ministers in charge of labour, health, social protection and social cohesion policies.

In 2015, in the light of the rapid growth of such platforms as Uber, Airbnb, Leboncoin and La Ruche qui dit Oui, IGAS conducted a study describing and analysing the various social challenges of the gig economy in France. The report was released in summer 2016 and was one of the first attempts in France to cover the social aspects of the gig economy. It was based on both a review of academic literature and interviews with around 20 platforms operating in France, dozens of collaborative workers, domestic and international experts, social partners and domestic government agencies and offices.

In 2017, as a follow-up to the 2016 report, IGAS partnered with Sharers&Workers, which is a network of experts, academics and social partners on the gig economy, as well as France Stratégie, which is the key government think tank, to focus on two topics of importance for online platform workers: supplementary old-age and health insurance coverage on the one hand and social relations and social dialogue on the other hand.

IGAS has also investigated with the Inspectorate General of Finances the question of expanding the unemployment insurance scheme to the self-employed, including the particular category of economically dependent gig economy workers. The report, which was released in 2018, is informing the government in the development of current draft legislation.

Finally, IGAS is now working in collaboration with the Ministry of Transport on a report on the regulation of the taxi and private hire vehicle industry, with a particular focus on working conditions of Uber and other transportation platform drivers, in particular the issue of working time limits for private hire vehicles drivers.

- ***Make yourself visible! Campaign***

Ángeles de Vicente Abad, National Institute for Safety, Health and Wellbeing at Work (INSSBT), Spain

Ms Ángeles de Vicente Abad presented INSSBT's campaign concerning food delivery motorcyclists: 'Make yourself visible!'. Accident figures for food delivery motorcyclists are high. Above all, they work for many small companies and often (88 %) have a part-time contract and/or (in almost half of cases) a temporary contract (43 %). A total of 88 % of food delivery motorcyclists are 16-39 years old.

The campaign has had a positive impact. Because of the campaign, food delivery motorcyclists feel they are taken care of. The campaign was targeted, tailor-made and based on awareness raising, information sharing, research and empowerment (a multi-factor approach).

Ms Ángeles de Vicente Abad then summarised the success factors for the campaign, which included know-how to reach the target groups, identifying the best collaborators who have direct access to the workers, understanding the working process and workers' personal and professional profiles, and speaking workers' language. An impact assessment was carried out before, during and after the campaign.

## Parallel session 3: Characteristics of online platform work and workers

- Coordination by platforms — implications for job quality/Irene Mandl, Head of Employment Unit, Eurofound
- Risks of Violence and Harassment in Digitalized Workplaces: ILO ACTRAV discussion paper/Dr Phoebe V. Moore, Associate Professor, University of Leicester, UK
- Platformisation 2027: impacts for workers' health and safety (foresight study)/Marie Defrance, Institut national de recherche et de sécurité (INRS), France

### • *Coordination by platforms — implications for job quality*

Irene Mandl, Head of Employment Unit, Eurofound

Ms Irene Mandl started her presentation by briefly explaining Eurofound's understanding of platform work: paid work organised through online platforms to conduct specific tasks or solve specific problems. It involves three parties: the online platform, the client and the worker. This definition does not include platforms for sales, accommodation or financial services.

Ms Mandl then pointed out that increasing heterogeneity within platform work can be observed in relation to platforms' structural characteristics (for example size, sector, relationship between platform, client and worker), business models (for example transparency, fees to platform, type of contract, conduct), tasks (for example required skills, type, complexity), matching process (for example initiator, selector) and accessibility.

Ms Mandl continued with an analysis of the impact of the platform economy on job quality based on a study carried out by Eurofound comprising an extensive literature review, expert interviews and workers' interviews. In general, platforms are characterised by low entry barriers to the labour market, although there are some technical and social eligibility criteria on some platforms. The findings are ambiguous regarding discrimination. The employment status of workers is generally unclear legally and determined by the platform. Most commonly, the main activity of the worker tends to be outside platform work, and social protection is provided through that. Regarding collective representation, some workers are members of or supported by traditional trade unions. There are some emerging workers' initiatives, but rather for information and exchange.

In terms of income, platform work is characterised by unpredictability and insecurity. There is price competition in online tasks versus market prices in local and high-skilled tasks, and often unclear taxation.

Working time and work-life balance strongly depend on whether or not platform work is the main source of income, but, overall, workers are satisfied with their work-life balance. However, there is a perception that workers need to be available at all times and there is also potential for long and anti-social hours owing to shift assignment.

Regarding flexibility, autonomy and control, there is a theoretical flexibility to select tasks, schedules and work organisation, which is high for contests and worker-initiated tasks. In other cases, it is influenced by the availability of tasks, algorithms, surveillance mechanisms and ratings.

Health and safety risks might be amplified by youth, inexperience, lack of guidance and measures in place, stress and work intensity. Locally delivered tasks are often physically demanding and there is potential for harassment and accidents. The work environment is beyond control.

Work content and skills development are limited in micro- and locally delivered tasks, but good potential exists in online and more highly skilled tasks. Regarding employability, transitions and career progression, there are limited prospects in micro- and low-skilled tasks; platform work can provide a stepping stone to self-employment in worker-initiated tasks and facilitate portfolio building in contests.

- ***Risks of Violence and Harassment in Digitalized Workplaces: ILO ACTRAV discussion paper***

Dr Phoebe V. Moore, Associate Professor, University of Leicester, UK

After briefly introducing the study *The Threat of Physical and Psychosocial Violence and Harassment in Digitalized Work* <sup>(15)</sup> on which her presentation was based, Dr Phoebe V. Moore started her presentation by describing some characteristics of digitalised management methods (DMM). Those methods are characterised by, *inter alia*, the use of big data and of people analytics in human resources management such as digitalised profiling and tone and sentiment analysis to make decisions about hiring/firing and algorithmic distribution of work. Methods also involve workplace decision making in appraisals, seen to deal with the 'people problem' as it has been called. Computerisation and automation also feature in DMM. There is a rise in the use of 'own-contract' or bogus self-employment contracts to disguise unstable employment relationships, blocking workers from having basic rights such as holiday and sickness pay as seen in gig work. Other examples include tracking wellness and productivity with sensory and other monitoring devices; introduction of technologies to replace aspects of work or jobs altogether; and an 'always on' culture of work and boundary permeability, where workers are expected to be available by phone or email throughout the weekend and evenings, and related practices and expectations.

Dr Moore then gave some examples of risk areas for physical and psychological violence in digitalised work. Those comprise working in contact with the public; working in situations that are not properly covered nor protected by labour law and social protection; unsocial working hours (for instance evening and night work); working alone or in relative isolation or in remote locations; and working in intimate spaces and private homes.

Finally, Dr Moore presented examples of social partners initiatives in this area. These include IG Metall Bezirksleitung North Rhine-Westphalia (NRW) Projekt: 'Arbeit 2020 in NRW' Better Work 2020 and Arbeit + Innovation; Fair Crowd Work; the new gig work branch for Independent Workers Union of Great Britain (IWGB); FAU Berlin Rebel Roo rider campaigns and protests. UNI Global Union (UNI) recently published the 'Top 10 Principles for Workers' Data Privacy and Protection'. The first success in collective bargaining has been seen recently between Hilfr and Fagligt, Faelles, Forbunng (3F) (United Federation of Danish Workers).

- ***Platformisation 2027: impacts for workers' health and safety (foresight study)***

Marie Defrance, Institut national de recherche et de sécurité (INRS), France

Ms Marie Defrance presented a foresight study <sup>(16)</sup> carried out by INRS to identify the main changes occurring in work and employment by 2027 and their impact in the field of OSH. The foresight focused on two sectors: retail trade and interior fit-out.

According to the study, workers working for these platforms are particularly exposed to both physical risks factors, such as handling and lifting loads under time constraints in changing contexts or road traffic risks, and psychosocial risk factors, such as unusual working hours (night work, fragmentation

<sup>(15)</sup> [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---actrav/documents/publication/wcms\\_617062.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---actrav/documents/publication/wcms_617062.pdf)

<sup>(16)</sup> Platformisation 2027: Consequences on Occupational Safety and Health, INRS, 2018. <http://en.inrs.fr/news/platformisation-2027.html>

of working time), work intensification, little autonomy, decline in social relations (competition between workers, weakening of the collective of workers) or clients' ratings.

Ms Marie Defrance then presented the specific example of delivery drivers' exposure to psychosocial risk factors. The platform algorithm allocates delivery runs. The faster the driver, the more runs he or she can make and the higher the income he or she can obtain. The best-paid working hours are often atypical. The platform traces all delivery drivers' movements (times of their runs, itinerary, speed, etc). They have to conform to requirements with no real room for manoeuvre. Drivers might be overqualified for the job.

The question is: is platformisation a challenge or a revolution for prevention? Most of the general principles of prevention appear to be out of tune with the functioning of the platforms. The business model and organisation of these companies are outside the regulatory and insurance framework encouraging prevention. When social protection for platform workers is discussed, OSH is generally out of scope. But nothing prevents platforms from referring to OSH to implement actions to protect the health of workers.

Within the study, solutions for prevention have been developed. For example, algorithms could incorporate a risk assessment dimension associated with the tasks and launch prevention recommendations.

Ms Marie Defrance concluded her presentation by presenting some recommendations from the study. The INRS encourages platforms to invest more in improving the 'worker experience' and occupational health as early as possible in new organisations. Platforms' innovation capacity could be used to ensure a high level of worker health protection. They could become prevention relays by deploying safety standards or safer work equipment. This will depend on the choices made by these platforms.

TO VIEW A VIDEO INTERVIEW: <https://www.youtube.com/user/INRSFrance>

## 4 CLOSING PLENARY

### Discussion points and conclusions

- The platform economy creates jobs and new opportunities with more flexibility and additional income. It is a driver for innovation and has the potential to create more efficient business models by matching demand for and supply of labour. It can also facilitate labour market access for vulnerable groups. But at the same time it creates new challenges for labour protection and OSH management by fostering often precarious forms of employment.
- So far, the phenomenon is limited, but the platform economy is a fast-expanding area and the effects on the labour market and labour protection are disproportionately disruptive. At the moment it is not the size but the disruptive nature of the platform economy that gives rise to concern about workers' rights and social protection, including health and safety. Are the achievements in this area at risk?
- From a historical perspective, there are some similarities between temporary agency work and online platform work. The existing Directive 2008/104/EC on temporary agency work was preceded by two social partners' agreements. Directive 2008/104/EC has played a role in setting Europe-wide minimum standards in the temporary agency work sector.
- Online platform work comprises a great variety of working arrangements, generally 'atypical' in some way: different types of jobs and many forms of non-standard employment, from high-skilled work intermediated by platforms and carried out online, typically by creative professionals independently of location, to service work carried out in people's homes or other premises managed via platforms. Consequently, working conditions also vary significantly. In some cases online platform work offers desired flexibility in working time and place of work, but in many cases it is associated with forced flexibility.

All the risks of specific work activities themselves are present in online platform work, but they are likely to be aggravated by the specific features of online platform work/workers (lower average age; lower training levels; working in private settings; loss of the protective effect of a common workplace; time pressure and rapid pace of work; continuous real-time evaluation and performance rating; etc).

- There is evidence of rising risks of psychosocial, psychological and physical violence in digitalised workplaces. This can be observed in both online and offline platform work, in people analytics in office work, and in factory and warehouse work. Women, vulnerable groups and unskilled workers are at the highest risk. Evidence of violence includes bullying, discriminatory practices, racism, wage theft and work intensification. While technologies themselves do not automatically create conditions that involve higher risks of violence and harassment, the ways they are integrated and applied via digitalised management methods potentially do so.
- The question of responsibility is key. Who is responsible for keeping up safety and health standards? Avoiding responsibility, the strategy that many platforms follow, is not a sustainable way of doing business.
- Labour inspection is also challenged by the blurred role and responsibilities of the employer in relation to the workers, by the lack of clarity on who is responsible for risk management and by work being done at anytime and anywhere.
  - There is a variety of emerging forms of collective representation in the online platform economy, but there is no uniform pattern across countries for collective representation. Social dialogue is crucial to realise the full potential of the platform economy.
  - At the moment, it is up to the workers to claim their rights. The burden of proof in determining employee status should be on the platform, so that, in cases where platform workers challenge misclassification, it is incumbent upon employing entities to prove that persons carrying out paid work are not employees.
  - Regulatory and policy responses to the challenges show a great variety and include stepping up enforcement of existing rules, extending the application of 'employment', devising a new category of 'independent worker' or a presumption of employment, or providing specific protection.
  - As many platforms are international, there is a need for a common response: a shared level playing field needs to be ensured. Coordinated action is needed.
  - The European Pillar of Social Rights constitutes the broader policy framework for action in the area of social protection and basic rights, which includes the right to fair working conditions. This also creates the framework for a European-level response to the regulatory challenges of the online platform economy. The Commission Proposal for an EU Directive on transparent and predictable working conditions in the EU and the Commission Proposal for an EU Council Recommendation on access to social protection for workers and the self-employed represent the first steps in that direction.
  - More reliable data are needed, both quantitative and qualitative, on online platform work and workers and on working conditions in the online platform economy. It is also necessary to clarify the terminology and concepts related to the online platform economy.