

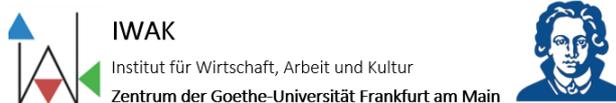
TAILORED GUIDANCE FOR DIGITAL PLATFORMS AND NETWORKS

ALPHS

Advancing Personal and Household Services



Partners



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Some argue that digital platforms and networks will help to achieve better service quality for workers, employers, governments, and clients. Digital platforms can also be used to connect workers and employers for advocacy work. In the home care context where so many workers are isolated, digital platforms offer a common space to discuss common issues and can contribute to increased levels of organisation among workers. It must also be mentioned that digitalisation will require a certain level of competency among both workers and employers. Without training (and the necessary hardware) it would be impossible to leverage the advantages of online platforms and networks.

This is specifically a challenge for people with visual impairments or with physical restrictions, as well as those without access to technology. Recent estimates suggest that over 70 million people worldwide now use online work platforms to access work opportunities, and that the peer-to-peer economy in the EU is worth €28 billion. However, there is little to no evidence that such online platforms are currently contributing to increased standards for workers and the sector. Indeed, there is a significant risk that digital platforms will lead to more gig work, less job security, and unstable wages for workers. This would mean fewer protections for workers or employers, no background checks and no professionalisation guarantees for clients, among many other issues.



DIGITALISATION AND CHANGES IN PHS

According to the Bologna Declaration of the Association for the Advancement of Assistive Technology in Europe, it will be necessary 'to raise awareness about assistive technology, universal design, and accessibility as a matter of human rights, with technology being a significant and often determinative enabler for people to claim and to realise their rights.'¹

The EFCI-UNI Joint Statement on the impact of Digitalisation on employment in the Cleaning and Facility Services Industry reasserts that 'Digital tools and mobile devices need to be used in balance with the respect and promotion of work-life balance and mental well-being.'² Especially, live-in care workers and domestic workers should have the right to disconnect.

As in other industrial sectors, existing business models are increasingly becoming digitised and new business models are taking shape as digital platforms. Both require an adjustment of working conditions and labour market mechanisms as well as the involvement of the social partners at various levels.

In care, robotics can be used to aid workers with the heavy lifting of patients. Autonomous/semi-autonomous systems can support care workers to determine the required medical and non-medical tasks. They can also be used to set workers' schedules and routes. In both cases, these systems require increased attention to the integrity and transparency of the data and the algorithms used. In non-care services, robots can assist with floor cleaning amongst other tasks.

Sensors and the Internet of Things can be used to professionalise PHS, making the job more attractive, improving workers' health and safety and ensuring high-quality services. Digital skills are also becoming important to support clients in carrying out administrative tasks such as online banking or using home automation tools such as smart appliances. They can also lead to more surveillance and monitoring of workers and clients/users/private employers, demanding a new awareness of the impact of this on privacy and human rights.

According to s. 4.4. of the European Economic and Social Committee's own-initiative opinion on Industrial changes in the health sector 'Digital innovation, notably concerning mobile health applications, can help to address risk factors that are associated with chronic diseases. Mobile health and remote monitoring support prevention and may also reduce the need for burdensome treatments later on.'³

¹ <https://aaate.net/the-bologna-declaration>

² https://www.efci.eu/wp-content/uploads/2019/10/2019-10-29_Joint-statement-on-digitalisation-EFCI-UNI-Europa-29.10.2019.pdf

³ <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/industrial-changes-health-sector-own-initiative-opinion>



**DEFINING
ONLINE
PLATFORMS**

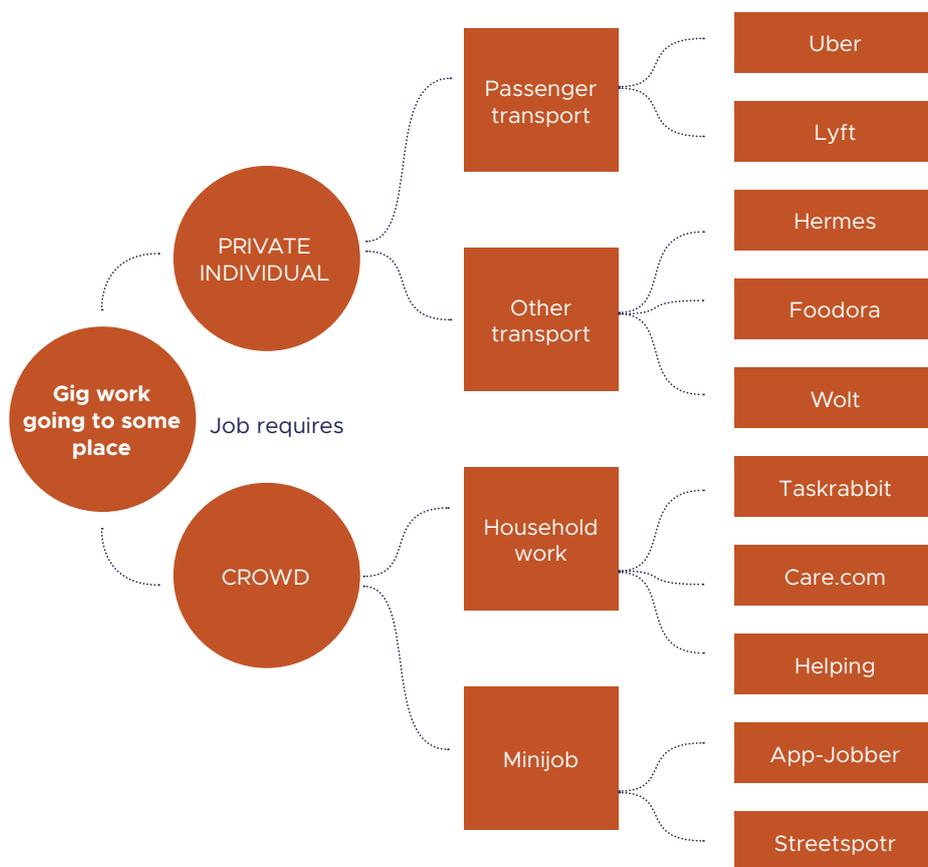
Online platforms are playing an ever more important role in European social and economic life. Over a million workers in the EU rely on platforms as their main source of income. They enable consumers and service users to find online information and businesses to meet their needs. However, we must be cautious that digital platforms are not used to suppress workers' rights and wages, and push workers further into isolation.

Online platforms share key characteristics including the use of information and communication technologies to facilitate interactions (including commercial transactions) between users, the collection and use of data about these interactions, and network effects which make the platforms with most users most valuable to other users.

Digital platforms have changed how work is done and managed, and how we communicate. Platform economy jobs often take the form of brief gigs or individual tasks that might previously have formed part of larger blocks of work. These jobs can be done either solely online (cloud working) or as gigs completed at someone's home.

Platform cooperatives are defined as businesses that use a website, mobile app or protocol to sell goods or services while relying on democratic decision-making and shared ownership of the platform by workers and users.

- **Cloud work** work is work carried out through an online platform. Such work, therefore, requires no physical contact at any point between the order-giver and the worker.
- **Gig work** refers to work that is done through a platform, at some physical location.



Policy-makers ought to level the regulatory playing field between platforms and 'standard businesses' to prevent a race to the bottom in wages and working conditions, and also to ensure the future of the European social model. The regulatory context must also include standards for both workers and clients. Both parties should be equally considered.

SOCIAL DIALOGUE, INFORMATION AND CONSULTATION



According to the joint statement by the Social Employers and EPSU, ‘digital transformations should be implemented safely and responsibly with the information and consultation of workers in driving and shaping such a transition. The acceptance of technical innovations depends on the capacity to integrate the new technologies into the work organisation and the care process while pursuing a holistic approach for the care and support of the users.’⁴

The social partners in industrial cleaning (UNI Europa and EFCI) argue in their joint statement on digitalisation that ‘social dialogue and collective bargaining will be a necessary tool to ensure a successful digitalisation transition in the cleaning and facility services sector.’⁵

Social dialogue and collective bargaining should be extended to platform workers/platform companies. An important step would be to recognise these workers as workers in law, since this will help to avoid independent contractor relationships.

⁴ <https://www.epsu.org/sites/default/files/article/files/EPSU-Social-Employers-Joint-Paper-Digitalisation-V5-FINAL-06.06.19-EN.pdf>

⁵ https://www.efci.eu/wp-content/uploads/2019/10/2019-10-29_Joint-statement-on-digitalisation-EFCI-UNI-Europa-29.10.2019.pdf

DATA RIGHTS, WORKPLACE SURVEILLANCE AND EMPLOYEE MONITORING



Regarding the collection and use of data, the European legislation on data protection, the GDPR, provides the legal framework within which Member States have developed their national legislation. Employers are responsible for taking appropriate measures to ensure the protection of data. Employers need to ensure appropriate security levels of IT systems, including monitoring systems, while respecting the privacy of workers and employees. Employers must also ensure that employees are informed of all relevant legislation and company rules concerning data protection. It is the employers' responsibility to comply with these rules.

The social partners encourage employers to exchange with their employees and to engage in information and consultation with employees and their representatives on the introduction of new technologies in business and operations, as well as the use of data collected by companies and clients, through collective bargaining or the establishment of codes of conduct when appropriate.

Workers' rights must extend beyond the data collected, to the inferences made using these aggregated data (e.g. in algorithms). It is these inferences that can have the largest and most privacy-invasive effects on workers' rights and freedoms.



**PLATFORMS
IN THE
PHS SECTOR**

In the PHS sector, we can observe that clients and workers use existing online platforms such as Facebook to recruit workers or these very same workers look for jobs. This was evidenced when organizing the Ad-PHS meetings in Malta and Hungary. Consequently, this also underlines why so few stand-alone platforms exist.

For women workers, platforms in care might potentially assist them to balance their paid and unpaid care work⁶.

Digitalisation in Personal and Household Services (PHS) involves the incorporation of digital technologies in everyday social services provision. The emergence of platforms as intermediaries in PHS is one key development in the digitalisation of the sector.

According to the report *Transferability of Digital Solutions Enhancing Integrated Care across Europe: Identifying and prioritising barriers and enablers*, digital platforms enhancing integrated care are 'digital health and wellbeing platforms that enhance the delivery of integrated care, empower the person/patient to self-manage, and contribute to the improvement of the collaboration of individuals/stakeholders within the care ecosystem through the management and sharing of patient-generated information.'⁷

They exist, among other places, in:

- Luxembourg: Homehelp.lu, batmaid.lu, Appilux
- Germany: Helping
- Ireland: The use of online platforms has increased significantly in recent years.⁸ These platforms include care-focussed platforms, such as Home Care Direct, Mindme and Dream Team Nannies and non-care-focussed platforms such as Helping, Laundr and Pristin.⁹

6 <https://eige.europa.eu/publications/gender-equality-index-2020-digitalisation-and-future-work>

7 <https://aaate2019.eu/wp-content/uploads/sites/24/2019/09/ProAct-digital-final-8.14.pdf>

8 Manoudi, Anna et al. (2018).

9 McGuinness, Seamus et al (2018).



**THE ADVANTAGES
AND
DISADVANTAGES
OF PLATFORM
WORK IN THE PHS
SECTOR**

6.1. Advantages of platform work in the PHS sector

- Platform work is filling a gap in the PHS market;
- It is an easier way to get work than looking for a standard job;
- Some use it as a way to earn extra income on the side;
- Platform workers can take more control of their work (but not how their work is organized or the hours that they work), work flexibly and improve their work-life balance. That being said platform workers are also at greater risk of precarious work.
- There is evidence that people use it to gain work experience, develop their skills, and improve their job prospects;
- Platforms can lift the administrative burden on families and users;
- Workers have designated tasks and activities;
- Standardised contracts exist;
- They can vet employers/workers;
- Platforms take care of the administrative work for the employers but download all responsibilities onto the worker.

6.2. Disadvantages of platform work in the PHS sector

- Platform workers use a lot of unpaid time between tasks/clients – or they feel they have to be accessible and online all the time to get the jobs;
- Workers have limited legal protection as self-employed ‘independent contractors’ on for-profit platforms;
- Digital on-demand work is reinforcing stubborn labour market inequalities rooted in gender and race, reinforced through customer reputation reviews and digital platform algorithms which route jobs out and set the terms under which digital workers labour;
- Independent contractors who work in other people’s homes are frequently subject to sexual harassment. According to Alexandra J Ravanella, this is partly because this kind of work (cleaning, cooking, Airbnb, etc.) takes place in people’s homes, the power relationship is unbalanced because workers have to furnish far more information than service users, and ultimately regulation is lacking given these workers’ status as independent contractors;
- There is growing criticism around attendant working conditions, wage levels, and distributions of income and wealth;
- Income is often low and unpredictable, working time can be long and unsocial, health and safety might not be properly addressed, and workers are often not sufficiently covered by the state’s social protection system;
- It opens the door to bogus self-employment;
- Only a small fraction of platform workers earn the local minimum wage;
- Most transactions on platforms are neither taxed nor covered by social insurance. Workers also often lack health and safety protection or industrial injury insurance.



**PLATFORMS CAN
HELP TO TACKLE
INFORMALITY IN THE
SECTOR, CREATE A
LEGAL DEFINITION
OF THE SECTOR
AND EQUALISE
WAGES, TERMS, AND
CONDITIONS**

Digitalisation in the PHS sector could simplify the links between the stakeholders – employers (private individuals and enterprises), workers, users, public decision-makers, civil society, etc. – by disseminating reliable information on the quality of services and on the rights and obligations of each stakeholder. To achieve this would take considerable effort, and would require intervention from the state. Intermediary platforms are used to help households to find their PHS workers, but often do not come with an automatic work declaration. Therefore, these intermediary platforms must be associated with a digital declaration tool to enable private employers to declare their workers. This is a way to fight undeclared work. This declaration must automatically create social rights for the workers.

7.1. Platforms to tackle informality in the sector

In Italy, around 70% of employment in the personal services sector is informal. In countries, such as the Netherlands where childminders are privately and directly employed by individuals and 21% of PHS service providers do not report their income, platforms offer a means to regularise work and create employers' organisations.

Examples from other platforms speak to the opposite of this claim. A bike courier informally 'employs' others to do the rides for him/her (case from Paris). Or take the reason why Uber lost its licence in London – the same informal economies amongst workers. And in these cases, these will fuel more precarious work.

7.2. Recognition and legal definition of the sector

Platforms might also help establish a legal definition of the PHS sector in countries, as they tend to standardise and routinise work processes and activities across a large number of workers and clients. The legal definition needs to specifically include workers who are hired through digital means.

In the PHS sector, some EU Member States such as France and Luxembourg use digital platforms as an incentive to facilitate work declaration for private employers. Observers note that the simplicity and rapidity of the declaration formalities through the digital platforms encourages work declaration and has improved the understanding of the sector and the statistical assessment of the public policies which accompany the sector within the Member States and on a European level.

Data gathered from declarations can lead to a better understanding of the general work conditions of the employees and can be used to simulate the impact of declaration mechanisms on public finances.

7.3. Wages and terms and conditions

Platforms tend to equalise wages across large groups of workers. While in courier services and ridesharing this has tended to devalue people's work, in PHS it could establish barriers to entry as well as matching workers with clients according to needs and skills.

In countries such as the Netherlands where under WMO¹⁰ personal care budgets are set by the municipalities, municipal governments could run platforms to ensure that workers are paid fairly and that care users act as responsible employers.

7.4. Quality management through platforms

Platforms do not necessarily need to rely on a star system, as is commonly used in ridesharing apps. Instead, various dimensions could be covered at both the users' and providers' end to develop a holistic picture of skills, availabilities and languages.

In Luxemburg, directly contracted employees do not require training or certification, whereas employees contracted through intermediary agencies are vetted for quality. Standards could be jointly established by users and service providers and monitored by public authorities.

¹⁰ Wet maatschappelijke ondersteuning (Social Support Act) 2015



REGULATING LABOUR PLATFORMS

As the PHS project couldn't identify different promising practices in regard to PHS online platforms, it worth investigating examples from different sectors.

One of the major issues is that platforms treat workers as self-employed.

As platform work does not fit into traditional economic and labour market structures, it challenges the institutions and legislation built around them. Courts in various countries have been asked to decide whether or not this business model creates unfair competition for traditional operators and whether it circumvents labour law.¹¹

There are various methods of regulating platform work which can inform stakeholders and Member States as they engage with such platforms in the PHS sector:

- On 11 January 2019 an Italian court ruled in favour of five former Foodora riders, forcing the company to pay them according to the collective bargaining agreement in logistics and merchandise transport;
- The Oxford Internet Institute is launching the Fairwork Foundation to rate the working conditions of the digital labour platforms. It will operate much like the Fairtrade Foundation by providing a label to companies with good work practices;
- Meanwhile, the GMB has negotiated a collective agreement with Hermes, in which workers have the option to either remain self-employed or 'self-employed+' which guarantees a minimum wage, union representation, and holiday pay;
- A Californian Supreme Court decision makes it harder to classify workers as independent contractors. The decision upholds that every worker who is central to the company's core business needs to be categorised as a worker;
- In Ireland, a new law banning the use of zero-hour contracts and working agreements has come into effect;
- Three court cases in Spain ruled that platform workers ought to be considered 'employees'. In all three cases, the courts decided that the online platforms were engaging in 'bogus self-employment' or found that an employment relationship between the platform and the worker existed. The reason is that the company is the sole holder of the information contained in the business system. Further, courts did not see workers' bicycles and gear as 'means of production' but rather the platform itself. Lastly, workers had no autonomy or control over how to conduct their work but rather received 'detailed instructions'.

¹¹ For a full overview of judgments see here: <https://ignasibeltran.com/2018/12/09/employment-status-of-platform-workers-national-courts-decisions-overview-australia-brazil-chile-france-italy-united-kingdom-united-states-spain/#%C3%ADndice>



BEST PRACTICE EMPLOYMENT EXAMPLES

The collective bargaining contract between Danish trade union 3F and Hilfr is unprecedented insofar as it treats self-employed contractors as workers.

The 12-month pilot agreement came into effect on 1 August 2018. However, a ruling by the competition authorities has outlawed the collective agreement¹².

There are around 450 workers on Hilfr.dk, a website platform providing cleaning services for around 1,700 customers across Denmark.

Key points of the collective agreement are:

- minimum payment of 141,21 DKK (€19) per hour
- pension contribution
- holiday pay
- sick pay
- introduction of a 'welfare supplement' (velfærdstillæg), an additional amount of 20 kroner (€2.70) per hour to be paid on top of salary

Steffen Wegner Mortensen, co-founder of Hilfr, says: *“The deal makes really good sense from a commercial perspective. If you want to attract the best cleaners you also need to treat them well. Good working conditions, a fair salary and clear procedures to avoid tax avoidance have too often been disregarded by platform firms. With this agreement we are seeking to address these shortcomings and raise the standard for the platform economy.”*

As the future of this collective agreement is uncertain, it is necessary for future projects to identify and launch PHS platforms that raise standards throughout the sector.

¹² For more background on the court ruling, this article is worth reading <https://www.socialeurope.eu/collective-bargaining-rights-for-platform-workers>

KEY RECOMMENDATIONS



1. Create a regulatory level playing field;
2. Create a social dialogue and collective bargaining within all forms of business, including platforms;
3. Users and workers should be able to rate the platforms, as well as have a way to contest ratings that they see as personally damaging to future employability;
4. Private employers should be able to easily declare their workers via online declaration tools which must automatically create for these workers the same rights as all workers have in the EU;
5. Establish far better data rights for workers, and data transparency requirements on companies towards workers and clients. This is especially relevant in the care sector where the data gathered can be medical and therefore highly sensitive;
6. All workers, in all forms of work, should have the same social and fundamental rights;
7. Member States need to develop clear definitions of online platforms and to clarify their legal status: when should online platforms be considered as intermediaries and when service providers?
8. Member States should take into account the various means by which online platforms exercise control over service providers;
9. Member States need to decide on the legal status of platform workers. When are they employees and when self-employed?
10. Obligation to inform relevant authorities: online platforms should be obliged to pass relevant information to national tax and social security authorities within an appropriate time frame;
11. Ratings: an obligation for online platforms to be more transparent on how ratings are created and a possibility for workers to take action against inappropriate rating. Workers should also be allowed to transfer their ratings to other platforms to become more independent economically

IMPORTANT LINK

Eurofund – Platform economy repository

<https://www.eurofound.europa.eu/data/platform-economy>



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