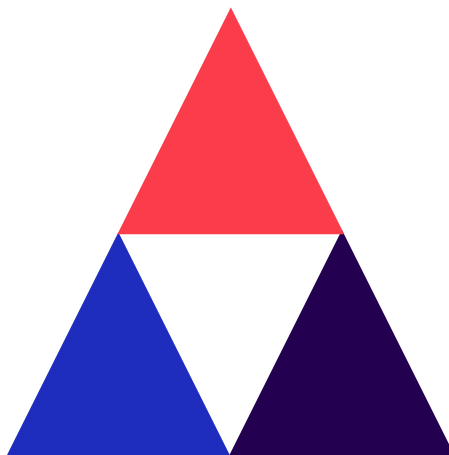




► Decent work in the platform economy

Reference document for the Meeting of experts on decent work
in the platform economy
(Geneva, 10–14 October 2022)



▶ Contents

	Page
1. Introduction	5
2. The platform economy as a multifaceted reality	6
2.1. Definition of a platform and emergence of the platform economy	6
2.2. Multiplicity as a feature of platforms and platform work	6
3. Economic and business dimensions of the platform economy	8
3.1. Scale and growth of the platform sector	8
3.2. Main economic sectors where platforms are present	9
3.3. Geography of the platform economy	11
3.4. Business models in the platform economy	12
3.5. Collaboration and competition among digital platforms and other types of enterprises	14
3.5.1. Competitive advantages of platform models	14
3.5.2. The marketing power of platforms and their impact on fair competition	15
4. Work in the platform economy	17
4.1. Number of people in employment with platforms that provide work	17
4.2. Impact of the COVID-19 pandemic on the platform economy	18
4.3. Profile of platform workers	20
4.4. Opportunities for job creation in the platform economy	24
5. The legal debate over the classification of platform workers	25
5.1. Legal reasoning for classifications	26
5.2. Initiatives taken to classify platform workers	28
6. Working conditions and access to social protection for platform workers	30
6.1. Differing conditions in online and in situ platforms	30
6.2. Conditions common to online and in situ platforms	31
6.3. Data protection and algorithmic management	33
6.4. Social protection for platform workers	34

7. Exercising the rights to freedom of association, to organize and to bargain collectively	36
7.1. How the ILO Standards on freedom of association and collective bargaining apply to platform workers.....	36
7.2. Organizations and initiatives which defend the interests of platform workers and employers.....	37
7.3. Collective agreements for platform workers and employers.....	38
8. Conclusions.....	40

► 1. Introduction

1. The conclusions concerning the second recurrent discussion on social dialogue and tripartism, adopted by the International Labour Conference at its 107th Session (2018), expressed the commitment to “continue research regarding the access to freedom of association and the effective recognition of the right to collective bargaining of digital platform and gig economy workers and, on that basis ... decide whether convening a tripartite meeting would be appropriate or not”.¹ In March 2021, the Governing Body, at its 341st Session, decided “to request the Office to convene a tripartite meeting of experts on the issue of ‘decent work in the platform economy’ in the course of 2022”.² Finally, at the 344th Session of the Governing Body (March 2022), the Office proposed that, depending on the outcome of the tripartite meeting of experts, “either a general discussion or a standard-setting item on decent work in the platform economy could be envisaged, possibly as early as the 113th Session (2025) of the Conference depending on possible other items currently considered for inclusion on the Conference agenda”.³
2. The growth in the platform economy and platform work represents an opportunity for job creation and more flexible organization of production processes, but also a challenge in terms of fair competition among enterprises and achieving levels of employment protection and social protection for workers which are consistent with decent work standards and the international labour norms. For these reasons, it is essential to gain a better understanding of how it functions and what implications it brings. To that end, this report defines the key features of the platform economy and the characteristics of platform business models both in situ and online, paying particular attention to the consequences for fair competition among enterprises and for employment creation and restructuring. The report also discusses the classification of platform workers as well as their numbers and the main worker profiles, with particular reference to sex, age, education and migrant status. Lastly, working conditions and social protection are addressed, as well as the degree of access to the right of freedom of association, the right to organize and the right to collective bargaining enjoyed by workers and employers in the platform economy.
3. In this regard, links are made to the potentially applicable ILO standards and existing international and national initiatives. The former include the Equal Remuneration Convention, 1951 (No. 100), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Occupational Safety and Health Convention, 1981 (No. 155), the Home Work Convention, 1996 (No. 177), the Private Employment Agencies Convention, 1997 (No. 181), and the Social Security (Minimum Standards) Convention, 1952 (No. 102), as well as the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), the Employment Relationship Recommendation, 2006 (No. 198), the Social Protection Floors Recommendation, 2012 (No. 202), and the ILO code of practice on the protection of workers’ personal data. The purpose of these references is to present the regulatory framework in force and set the broad context for a contribution to the Meeting.

¹ ILO, [Resolution and Conclusions concerning the second recurrent discussion on social dialogue and tripartism](#), International Labour Conference, 107th Session, 2018, para. 6(e) of the conclusions.

² [GB.341/INS/PV](#), para. 47(c).

³ [GB.344/INS/3/1](#), para. 81.

► 2. The platform economy as a multifaceted reality

2.1. Definition of a platform and emergence of the platform economy

4. A platform may be defined as “a digital infrastructure that enables interaction between two or more groups [and] positions itself as an intermediary”.⁴ A similar definition considers the platform to be “a digital service that facilitates interactions between two or more distinct but interdependent sets of users (whether firms or individuals) who interact through the service via the Internet”.⁵
5. Among official institutions, including the ILO, no definition exists as to what the platform economy might be. Moreover, different terms are used to refer to this phenomenon: collaborative consumption, collaborative economy, sharing economy, peer-to-peer economy, short-term services or gig economy, demand economy or platform economy.⁶ However, in specialized literature the latter term has been gaining more followers. Its main strength is that it places emphasis on what lies at the core of these activities, namely the fact that they are conducted using a platform.⁷
6. Based on the time when the first platforms emerged, the birth of the platform economy can be situated in the 1990s. Its later expansion is linked to the economic crisis that began in 2008,⁸ but it is also regularly linked to other factors. Supporters of the first argument say that the 2008 crisis led companies to search for new sources of economic activity and that those sources were data, so that data provision is what gave rise to the platforms.⁹ Others insist that what lies behind the development of the platform economy are “the opportunities offered by modern technologies, difficulties in reconciling private and working life and the existence of well-educated young professionals looking for alternative forms of employment”.¹⁰ In any event, at least in the world of work, the development of the platform economy cannot be viewed in isolation, but rather as one more episode in the development of more flexible ways of working.¹¹

2.2. Multiplicity as a feature of platforms and platform work

7. The platform economy is an ecosystem where diversity reigns. The concept covers multiple business models, many sectors of economic activity, myriad forms of service provision and, where work is concerned, many ways of working and worker profiles. The platform economy is thus a pluralistic and complex reality which cannot easily be reduced to a minimum common denominator.

⁴ Nick Srnicek, *Platform Capitalism* (Cambridge: Polity Press, 2017), 30.

⁵ Organisation for Economic Co-operation and Development (OECD), *An Introduction to Online Platforms and Their Role in the Digital Transformation*, 2019, 20.

⁶ Jacques Bulchand and Santiago Melián, *La revolución de la economía colaborativa* (Madrid: LID Editorial, 2018).

⁷ María Luz Rodríguez Fernández, “Plataformas, microworkers y otros desafíos del trabajo en la era digital”, in *El futuro del trabajo que queremos*, eds María Luz Rodríguez Fernández and Laura Mora Cabello de Alba, 57–90 (Albacete: Bomarzo, 2017).

⁸ Ursula Huws et al., *Work in the European Gig Economy: Research Results from the UK, Sweden, Germany, Austria, the Netherlands, Switzerland and Italy* (Foundation for European Progressive Studies, 2017).

⁹ Srnicek, *Platform Capitalism*.

¹⁰ Eurofound, *New forms of employment*, 2015, 111.

¹¹ Florian A. Schmidt, *Digital Labour Markets in the Platform Economy: Mapping the Political Challenges of Crowd Work and Gig Work* (Friedrich-Ebert-Stiftung, 2017).

8. To begin with, there are various types of platforms. Depending on the existence or not of a profit motive in the economic activity, there are platforms which provide non-profit services and strongly business-oriented platforms designed to generate profits. As to those participating in the market, platforms can develop links between peers (peer to peer, or P2P), between businesses (business to business, or B2B), or between businesses and people (business to peer, or B2P). Finally, with respect to the goods and services they offer, platforms can connect supply and demand for labour, second-hand items, professional services, consumer durables, audiovisual content, and so on.¹²
9. Platforms offer diverse forms of work. Some of them, in supplying the services in question (deliveries, transport, personal care), require the workers involved to be located in a specific area (in situ platforms), while for other platforms the workers supply their services (consultancy, software design, image review for social networks) online. The former is a visible and traceable workforce; the latter is an invisible workforce scattered around the world.
10. This separation between in situ platforms and work performed online permeates any analysis of work in the platform economy. The way in which the work is done, the professional profiles of the workers, the perception of the work, the possibilities for regulating it – these aspects are not necessarily the same in the two types of work. The common factor in driving a vehicle for one platform and designing a web page for another is that these are types of work performed from a platform, but they can differ in many other ways. *It follows that platform work cannot be looked at from any single viewpoint.*
11. Worker profiles also vary. Further details are given below in relation to sex, age, education and migrant status, but a particularly significant difference lies in whether the platform work is one's main source of income or complements income obtained by other means. Although there is no data from official institutions in this regard, according to some estimates 30 per cent of online platform workers use them for their main source of income, while the remaining 70 per cent use platform work as an additional income stream. These proportions vary in the developing countries, where 44 per cent of online platform workers obtain their main income from this work. For taxi and delivery platforms, the proportions are reversed, with 84 and 90 per cent of workers, respectively, using them for their main income source.¹³
12. Finally, this diversity extends to the interactions between platforms and the labour market. Platforms can be understood as businesses that organize a given economic activity or as markets where supplies and demands of a given service or good intersect. In situ platforms are more visible as businesses, while those that operate online are more visible as markets, although both have features typical of the other.¹⁴
13. However, in situ platforms relate to the labour market in a similar manner to a traditional business, in the sense of having to recruit and organize at a particular place the labour they need in order to provide their services. By contrast, online platforms are global virtual spaces where users link up with professionals to perform particular tasks. In the first case, the platforms must interact with local labour markets and their rules and institutions, while in the second such interaction is practically non-existent. In the context of their relationship with local labour markets, in situ platforms can reorganize the self-employed work that already exists in a particular

¹² José Moisés Martín Carretero, "Las plataformas digitales como modelo de negocio", in *Plataformas digitales y mercado de trabajo*, ed. María Luz Rodríguez Fernández, 15–34 (Madrid: Ministry of Labour, Migration and Social Security, 2019).

¹³ ILO, *World Employment and Social Outlook 2021: The role of digital labour platforms in transforming the world of work*, 2021, 154 and 158.

¹⁴ Francesco Bogliacino et al., "Quantity and quality of work in the platform economy", GLO Discussion Paper No. 420 (2019).

sector (for example taxi services) or try to replace the normal wage work in some sectors by recruiting self-employed workers.¹⁵ However, online platforms act as a kind of cloud-based “planetary pool” which can fragment, extend and relocate economic activities without regard for the relevant labour market and institutions.¹⁶

► 3. Economic and business dimensions of the platform economy

3.1. Scale and growth of the platform sector

14. Although this report is concerned with platforms that provide work, it is useful to try to estimate the full reach of each type of platform in order to understand this economic phenomenon in greater detail. An initial examination of the global platform economy carried out in 2015¹⁷ produced the following estimates: (i) there were 176 platforms; (ii) they had a market value of US\$4.3 trillion; (iii) most were located in Asia (82) and the United States of America (64); (iv) the monetary value of the platforms was greater in the United States (72 per cent) than in Asia (22 per cent); and (v) they created 1.3 million direct jobs.¹⁸ In 2018, some studies¹⁹ identified 242 platforms with a market value of US\$7.1 trillion and a high level of concentration, given that 7 of them accounted for 69 per cent (US\$4.9 trillion) of total market value. In 2022, out of the world’s top ten largest companies, five are regarded as platforms by the specialized literature²⁰ (Apple, Microsoft, Alphabet (Google), Amazon and Meta Platforms (Facebook)), and have a market value of around US\$6.5 trillion.²¹ Clearly, both the number of platforms and their market value seem to be on the increase.
15. *Concerning platforms that provide work*, some estimates show that their number increased from 142 in 2010 to 777 in 2020.²² Most of these (383) are in the deliveries sector, followed by online platforms (283), those providing taxi services (106) and a small number of hybrid platforms (5) offering various services including e-commerce. However, since this is a very dynamic sector, it is possible that the number of platforms continues to increase.

¹⁵ Jan Drahokoupil and Brian Fabo, “The Platform Economy and the Disruption of the Employment Relationship”, *ETUI Policy Brief* 5 (2016).

¹⁶ John Horton, William R. Kerr and Christopher Stanton, “Digital Labor Markets and Global Talent Flows”, NBER Working Paper 23398 (2017).

¹⁷ Only platforms that fall into the “unicorn” category.

¹⁸ Peter C. Evans and Annabelle Gawer, *The Rise of the Platform Enterprise: A Global Survey*, The Emerging Platform Economy Series 1 (2016).

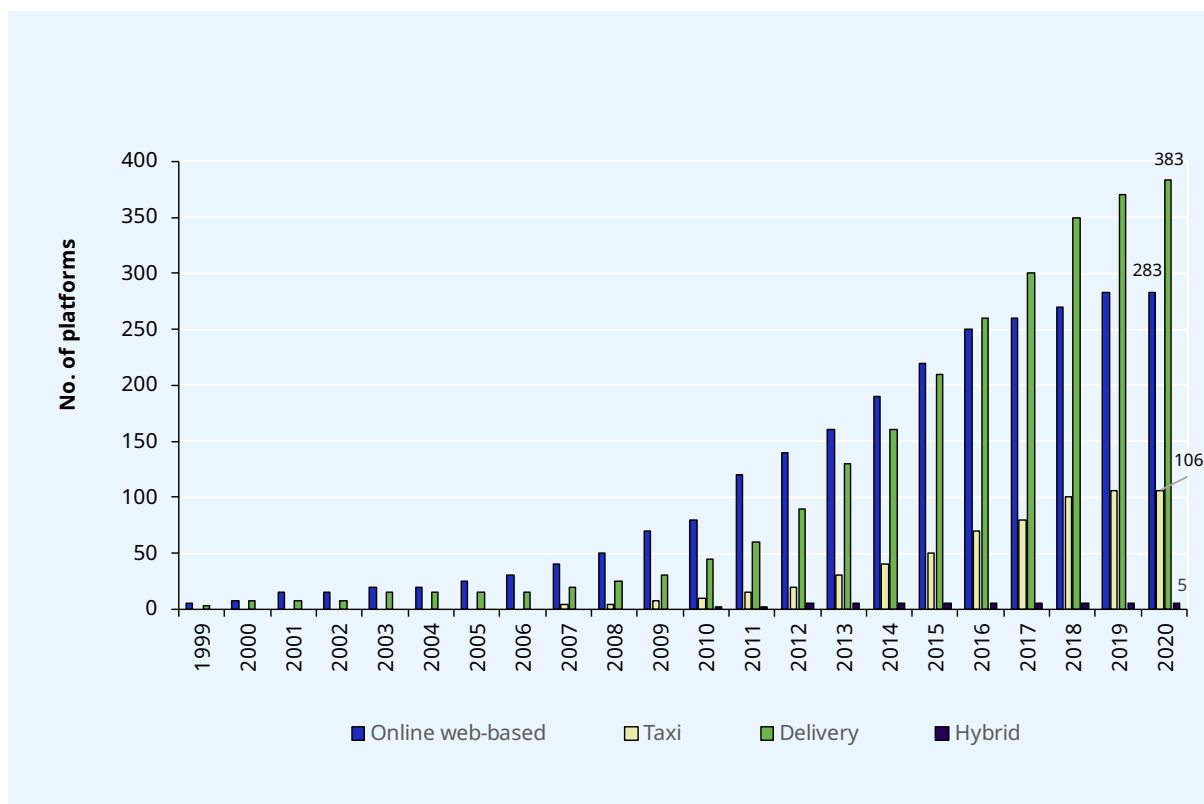
¹⁹ KPMG N.V., *Unlocking the value of the platform economy: Mastering the good, the bad and the ugly*, 2018.

²⁰ Martin Kenney and John Zysman, “The Platform Economy and Geography: Restructuring the Space of Capitalist Accumulation”, BRIE Working Paper 2019-11, 2019.

²¹ Global Market Cap Ranking, 13 June 2022.

²² ILO, *World Employment and Social Outlook 2021*, 19 and 46.

► **Figure 1. Change in the number of platforms providing work**



Source: ILO, *World Employment and Social Outlook 2021*, 47.

3.2. Main economic sectors where platforms are present

16. Any determination of the sectors where most platforms are to be found will vary according to how they are defined. For the purposes of this section a broader definition is used which covers every type of platform and not simply those that provide work. Without attempting to be exhaustive, the sectors are as follows.
17. *Accommodation:*²³ Platforms offering accommodation services have become more important, both for their growing market share and for their impact on the arrangements in the towns where they operate. This heading covers platforms which connect with private individuals to offer accommodation services in homes and platforms which connect private individuals with businesses to offer not only homes but also rooms in regulated accommodation. The platforms operating in this field include Airbnb (2008),²⁴ Couchsurfing (2004), HomeAway (2006), Homestay (2013) and Rumbo (2000).
18. *Transport:*²⁵ Here, the platforms connect with private individuals who request transport services, provided either by other private individuals or by properly licensed professional drivers. There are platforms which connect taxi drivers with their clients and platforms which link demand and supply of chauffeur-driven hire vehicles. There are also platforms which link private individuals in order to share the cost of journeys, but without offering compensation for the transport service.

²³ The *ILO Guidelines on Decent Work and Socially Responsible Tourism*, 2017, are applicable to this sector.

²⁴ These dates correspond to the founding year of the platform according to data from Crunchbase.

²⁵ The *Conclusions on the future of decent and sustainable work in urban transport services*, TMDWTS/2021/7, 2021, are applicable to this sector.

These platforms include BlaBlaCar (2006), Cabify (2011), Didi (2012), Grab (2012), Lyft (2012), MyTaxi (2009), Ola (2010) and Uber (2009).

19. *Financial services*: Financial services are undergoing a significant transformation following the emergence of financial services companies or financially focused technology companies, such as platforms for payments and micropayments, currency exchange, participation loans and crowdfunding. The financial services companies which use platform models include Crosslend (2015), Grow.ly (2013), Kickstarter (2009) and Zopa (2005).
20. *Qualified professional services*: In this sector there are platforms offering professional services such as programming, design, translation, legal advice or accountancy services from medium- and highly skilled professionals. Among these platforms are Catalant (2013), Gerson Lehrman Group (1998), Peopleperhour (2007) and UpWork (1999).
21. *Care economy*: Although they were already present before the pandemic, the latter triggered a blossoming number of platforms concerned with domestic work and personal care. Examples are Cuideo (2015), Mypoppins (2016) and Zolvers (2013).
22. *Deliveries and basic services*: There are also platforms which connect people in order to perform services requiring lower-level skills, such as minor domestic repairs or goods and food deliveries, or tasks requiring a certain level of planning, such as searching for large quantities of telephone numbers and checking lists or images. The platforms engaged in this type of work include Amazon Mechanical Turk (2005), Amazon Flex (2015), Delivery Hero (2011), Glovo (2015), Instacart (2012) and Taskrabbitt (2008).
23. *Audiovisual content*: These platforms are transforming the creative cultural and audiovisual sector. This sector contains platforms which enable online consumption of musical or audiovisual content, using real on-demand content aggregators on a tariff basis, or for a rental or purchase amount. Among the platforms in this sector are Amazon Prime Video (2006), Apple iTunes (2001), Netflix (1997), Spotify (2006) and YouTube (2005).
24. *Trading of new and second-hand products*: This is one of the most common and successful platform models, covering both second-hand and new products, seasonal offers and products as well as platforms for digital products. These platforms can connect businesses with clients or function as trading platforms between private individuals. They include Amazon (1994), Apple App Store (2008), eBay (1995), Google Play Store (2008), Rakuten (1997), Vinted (2008) and Wallapop (2013).
25. *Food and catering*: Platforms in this sector can link suppliers and demanders of food and catering services such as management of restaurant bookings and availability, assistance from chefs in the home or preparation of home-cooked meals. The platforms in this field include EatWith (2012), Chefly (2013), EITenedor (2006) and ShareTheMeal (2014).
26. It is clear from this that more and more economic activities are making use of platforms.²⁶ However, they do not all have the same importance in terms of employment. According to some assessments, the sector where private individuals most frequently use platforms to offer services is transport. This is the case, for example, in the European Union, where 44 per cent of those offering platform services did so in this sector.²⁷ The same applies in the United States, where 62 per cent of people receiving an income from work or equity platforms are engaged in

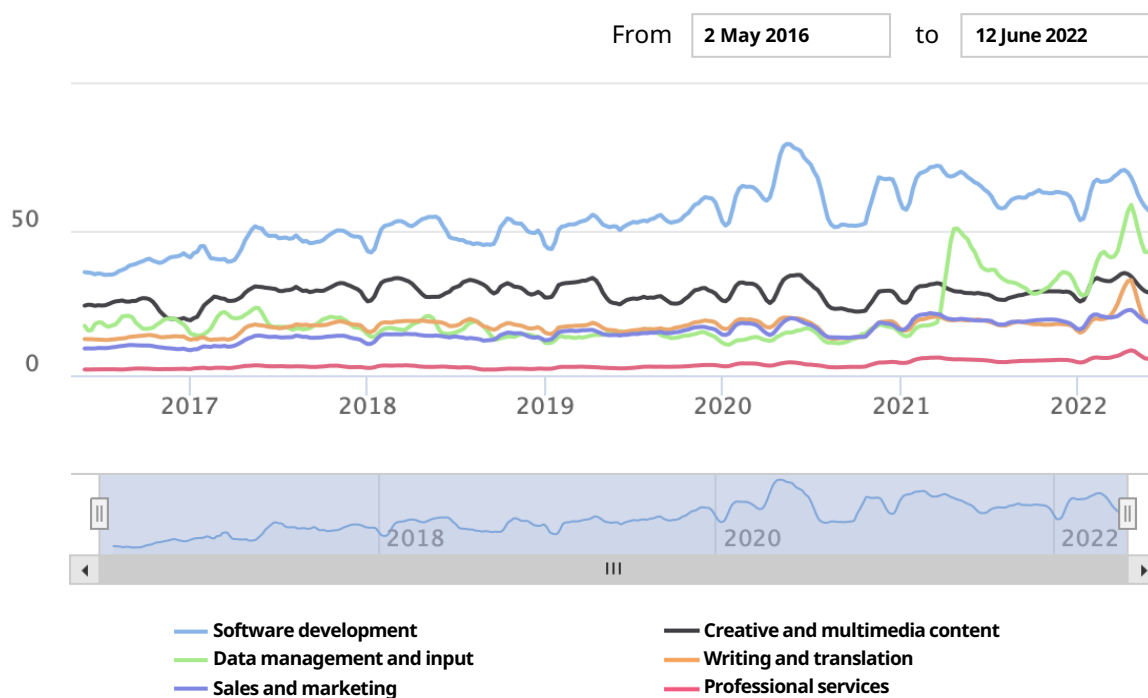
²⁶ Martín Carretero, "Las plataformas digitales como modelo de negocio".

²⁷ European Union, "Collaborative economy in the EU".

transport,²⁸ and also in African countries such as Kenya, where 33 per cent of people providing platform services are using transport platforms.²⁹

27. With respect to services provided through online platforms, the Online Labour Index, an economic indicator which incorporates projects and tasks available through the five main English-language online platforms, shows how the majority of such tasks relate to software development, creative and multimedia content, data management and input, writing and translation, sales and marketing and professional services.

► **Figure 2. Main tasks performed on online platforms**



Source: Online Labour Index.

3.3. Geography of the platform economy

28. Although platform activity in every category is reaching global scale, when one looks at where their headquarters are located the platform economy is highly concentrated in certain regions and countries. In Asia, the country with the greatest number of platforms according to some estimations is China (64); in North America, the United States (63); and in Europe, the United Kingdom of Great Britain and Northern Ireland (9). Finally, there is a smaller platform presence in Latin America and Africa (3).³⁰ Recent estimates³¹ expand on this concentration aspect and indicate that the United States and China account for 94 per cent of all funding for new artificial intelligence (AI) companies.

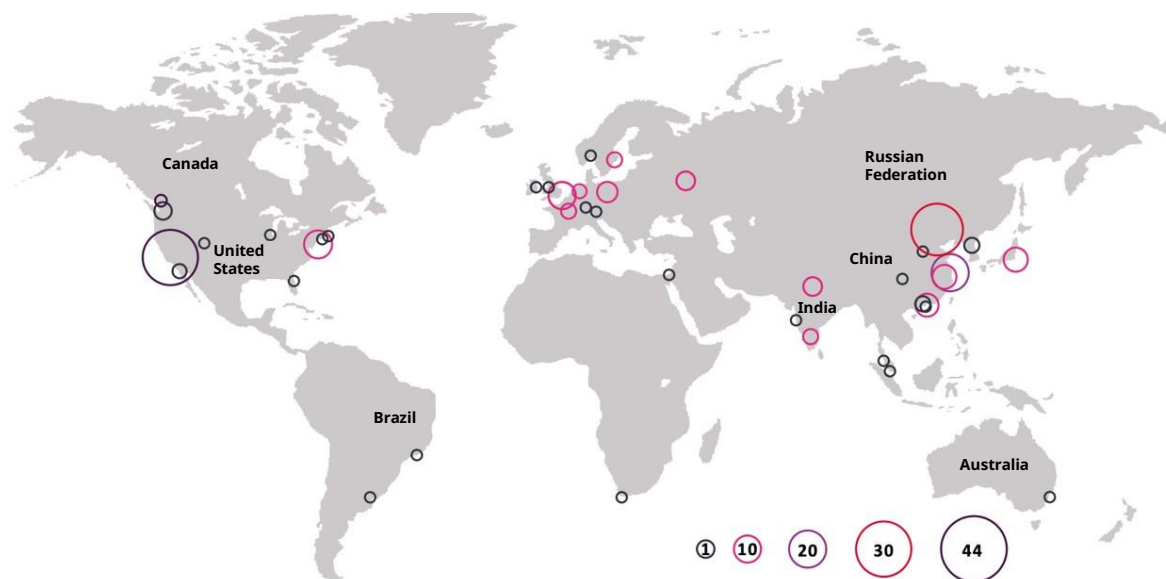
²⁸ Diana Farrell, Fiona Greig and Amar Hamoudi, “The Evolution of the Online Platform Economy: Evidence from Five Years of Banking Data”, *AEA Papers and Proceedings* 109 (2019), 362–366.

²⁹ Mastercard, *The Gig Economy in East Africa: A Gateway to the Financial Mainstream*, 2020.

³⁰ Evans and Gawer, *The Rise of the Platform Enterprise*, 11.

³¹ United Nations Conference on Trade and Development (UNCTAD), *Digital Economy Report 2021 – Cross-border data flows and development: For whom the data flow*, 2021.

► **Figure 3. Cities where platform headquarters are located**



Source: Evans and Gawer.

29. Among the factors that might explain this geographic concentration in the platform economy, reference is usually made to: (i) the availability of risk capital – inasmuch as these companies need finance from this source, locating it is likely to depend on its relative availability in particular regions; (ii) the regulatory framework, in relation to the greater or lesser potential for starting up companies in specific countries; (iii) the level of digital infrastructure development in a given country; and (iv) the potential size of the market and its maturity, in the sense of it having more or fewer potential customers for the platform’s products or services or there being more or less competition from platforms with similar business models in a particular market, which over time tends to reduce the number of platforms within it.³²
30. *With regard to platforms that provide work*, geographic concentration is also evident in terms of both the investment they attract and the profits they generate. Concerning investment, it is estimated that Asia receives US\$57 billion, North America US\$46 billion and Europe US\$12 billion, which entails more than 96 per cent of all investment. As to income, based on the data from 243 platforms, 49 per cent are located in the United States, 23 per cent in China and 11 per cent in Europe, which means that these three locations together account for 83 per cent of income from the platform economy.³³ However, platform work takes a number of pathways. According to data from the Online Labour Index (17 June 2022), the majority of online platform workers are in Asia (62 per cent), Europe (18 per cent) and North America (7 per cent).

3.4. Business models in the platform economy

31. For the purposes of this section, we shall use the definition of a business model most widely used in economic and business circles, namely that developed by Osterwalder and Pigneur, for whom “a business model describes the basis on which a business creates, provides and adds value”. Accordingly, the business model of platforms may be defined as that which “brings together two

³² Vera Demary and Christian Rusche, *The Economics of Platforms* (Cologne: Institut der deutschen Wirtschaft e.V., 2018), 25–26.

³³ ILO, *World Employment and Social Outlook 2021*, 65–66.

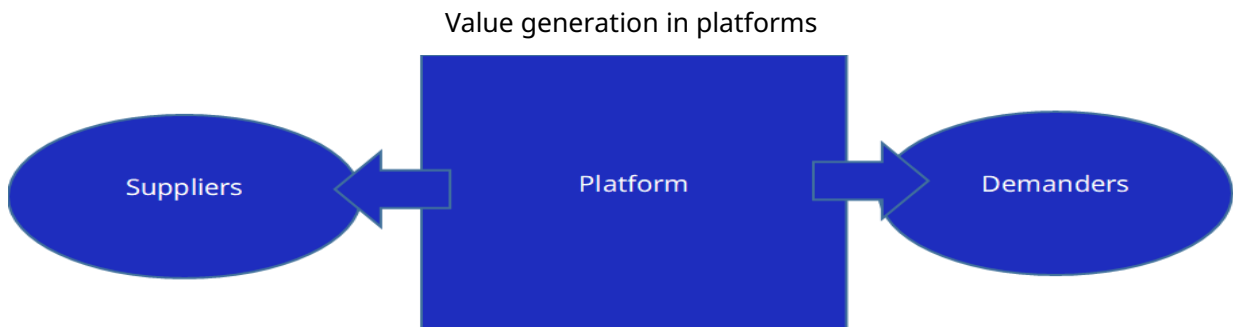
or more separate but interdependent client groups [which] creates value by enabling interaction between them".³⁴

32. The difference with respect to traditional business models lies in the structure of the value chain. In the traditional value chain model,³⁵ companies split the resources supplied by providers so as to go on adding value through the stages of sourcing, processing, distribution, marketing and after-sales services. It is a linear model in which companies generate added value at each stage of the process, leading to final delivery to the client for a specific price.



Source: Martín Carretero.

33. Although certain platforms also follow this linear value chain, the majority of them are set up to facilitate interaction among clients and suppliers, producing value on both sides of the chain. In this way, the value of the platform depends to a large extent on its ability to link suppliers with demanders.



Source: Martín Carretero.

34. From this basic structure, various platform business models can be configured.

► **Table 1. Platform business models**

	Description of model	Examples
Online exchange markets	Markets in which products and services are sold and distributed, in physical or digital form, normally at a price that undercuts traditional operators.	<ul style="list-style-type: none"> • Alibaba (1999) * • Amazon (1994) • Amazon Marketplace (2000) • Craigslist (1995) • eBay (1995) • Rakuten (1997) • Spotify (2006) • Taobao (2003)

³⁴ Alexander Osterwalder and Yves Pigneur, *Business Model Generation: A Handbook for Visionaries, Game Changers, and Challengers* (Wiley, 2010), 14 and 77.

³⁵ Michael E. Porter, *The Competitive Advantage: Creating and Sustaining Superior Performance* (New York: Free Press, 1985).

	Description of model	Examples
Social networks	Platforms which host users who generate content for consumption by other users.	<ul style="list-style-type: none"> • Facebook (2004) • Flickr (2004) • Twitter (2006) • YouTube (2005)
Collaborative economy	Markets for hiring goods and services that may be underused or unrecognized as such, normally at a price that undercuts traditional operators.	<ul style="list-style-type: none"> • Airbnb (2008) • JustPark (2006) • RelayRides (2009) • Sidecar (2007) • Uber (2009)
Crowdsourcing	Markets for the provision of work or technical knowledge.	<ul style="list-style-type: none"> • Amazon Mechanical Turk (2005) • TaskRabbit (2008) • Upwork (1999)
Collective financing/ participation loans	Markets where money is donated, pledged, lent or invested, normally at interest rates higher than those in the traditional financial sector.	<ul style="list-style-type: none"> • Indiegogo (2008) • Kickstarter (2007) • Lending Club (2007) • Prosper (2005)

* These dates correspond to the founding year of the platform according to data from Crunchbase.

Source: Prepared by the authors based on Paul Langley and Andrew Leyshon, "Platform capitalism: The intermediation and capitalization of digital economic circulation", *Finance and Society* 3, No. 1 (2017), 11–31.

3.5. Collaboration and competition among digital platforms and other types of enterprises

3.5.1. Competitive advantages of platform models

35. The main advantage of platforms is that they enable interaction between supplier and demander, which virtually eliminates the transaction costs incurred in the provision of goods and services. The access to platforms is automated, with hardly any waiting time, and is relatively simple. Once access is gained, the user can choose between offerings that vary in price and/or quality, in real time. Recruitment and pay are also automated, thus also reducing the administrative costs of the transaction. Any information asymmetry in the market can also be reduced, since the user can compare different services, prices or qualities before making a decision.³⁶
36. A second competitive advantage of platforms is their capacity to make use of economies of scale and network. Once the initial structure is established, growth in transactions ensures that any additional unit cost generated is close to zero, so that the value of the platform increases as its scale increases, thus attracting new participants to intermediate transactions. This positive feedback is known as the network effect: the larger the platform, the greater the likelihood that it will continue to grow at greatly reduced or even zero cost. It means that network value increases as the user perceives its usefulness in terms of growth in the number of platform users. In this way, a platform's usage value to the user depends on its capacity to generate network effects, whether direct (the value increases as the number of participants in the same group increases) or

³⁶ Eric Brousseau and Thierry Pénard, "The Economics of Digital Business Models: A Framework for Analyzing the Economics of Platforms", *Review of Network Economics* 6, No. 2 (2007), 81–114.

indirect (the value increases as the number of participants in other groups increases).³⁷ Moreover, the greater the number of platform users, the greater the quantity of data that can be obtained about them, enabling the platforms to respond by being more efficient and attracting new users, which also brings a competitive advantage over traditional businesses.³⁸

37. Finally, a further competitive advantage of platforms is the regulatory arbitrage they enjoy. Since they do not regard themselves as suppliers of goods or services but as intermediary structures, they hold that they are exempt from the regulatory requirements affecting the various goods and services they offer. The regulatory requirements (fiscal, labour, consumer) must thus be met by the providers or the clients and the compliance costs are borne by the producers of the goods and services being offered. Furthermore, the platforms pay hardly any of the costs of unused resources – such as storage, unworked hours and waiting time – as they are borne by those providing resources to the platform.³⁹

3.5.2. The marketing power of platforms and their impact on fair competition

38. Depending on their growth capacity and market share, in certain circumstances platforms can exercise significant marketing power. On the one hand, they can act as a monopsony towards suppliers by unilaterally setting stricter conditions for platform access, demanding exclusivity, raising charges, and other measures. On the other, they can act as a monopoly towards demanders, for example by increasing usage fees. This double value capture formula, where it exists, is what ensures that trading income increases, and it relates directly to the network economy effect already discussed. For this to happen, the determining factor is that the platforms can operate with suppliers and demanders that are both “price-accepters” and also organize their business model in a way which allows them to set the prices.⁴⁰
39. *Platforms’ use of marketing power can create dependence in the companies associated with them.* Companies can find value in platforms to the extent that these provide them with access to potential consumer demand for their products and services. In this way companies can end up depending on one or several platforms or even trapped by them. This dependence will vary according to the share of sales channelled through the platforms or the costs and investment involved in adapting products or services in line with platform specifications. These costs could deter companies from leaving the platform. The company’s reputation as a vendor, based on clients’ assessments, also constitutes a barrier to leaving, as normally that reputation does not translate well to other platforms.
40. *It can be particularly severe for small companies.*⁴¹ It is true that many small companies find in platforms a way to access a global market, increase market share and move further towards digital transformation, and that this is all considerably in their favour. But, if they depend to a large extent on one or several platforms to reach their customers, both to offer products and services on the market and for their advertising, the negotiating power that the platforms have over these small companies can be considerable. It can make platforms act more aggressively in respect of advertising conditions, transaction fees, appearance on the markets or the

³⁷ Mark de Reuver, Carsten Sørensen and Rahul C. Basole, “The Digital Platform: A Research Agenda”, *Journal of Information Technology* 33, No. 2 (2018), 124–135.

³⁸ Damien Geradin, “What Should EU Competition Policy Do to Address the Concerns Raised by the Digital Platforms’ Market Power?” (2018).

³⁹ Martín Carretero, “Las plataformas digitales como modelo de negocio”.

⁴⁰ Martín Carretero, “Las plataformas digitales como modelo de negocio”.

⁴¹ Filipe Da Silva, Júlia De Furquim and Georgina Núñez Reyes, *La libre competencia en la economía digital: las micro, pequeñas y medianas empresas (mipymes) en América Latina y el impacto del COVID-19* (CEPAL, 2020).

disproportionate priority that a platform's products and services might be given compared with the products and services of the small companies that sell through it. *Some of these practices have been found to be illegal because they support unfair competition.*⁴²

41. On the other hand, the entry of platforms into a particular sector can trigger a fall in market prices. As a general rule, a reduction in transaction costs and the incorporation of new suppliers and demanders through network effect translates into a decrease in the purchase and sale prices that platforms enjoy. This decrease in the market prices of platforms can, in turn, affect some sectors where price lowering is passed on outside the platforms. In regulated sectors, with a fixed price, this can trigger loss in demand by diverting it from other companies in the sector towards the platforms. One example of this is the existing controversy between the taxi industry and transport platforms. Moreover, *to the extent that a platform offers prices below the cost structure of specific providers, it can end up driving them from the market, with consequent loss of employment.* This is the threat facing, for example, the hotel sector in some cities where the market price of accommodation and a shift in demand are such that hotels' income may not be enough for them to survive.⁴³
42. This process of falling prices can be driven by the competitive dynamics of the platforms themselves. If a platform decides to enter a market, offering subsidized membership to users in order to reach the critical mass needed to trigger network effects, the traditional operators in the market can find it very difficult to compete. In some cases, such subsidy-based market entry in one part of the platform is funded by price rises in another part (cross-subsidy). But there are also circumstances in which market entry is funded by injections of venture capital, where it is anticipated that the value creation process will incur periods of loss, against the expectation of high potential growth in the medium and long term.⁴⁴ This provides platforms with an important advantage over their competitors because it allows them to prolong price decreases in order to gain market share, although it may involve losses. This is something that traditional companies cannot allow themselves, owing to pressure from shareholders when loss of profits occurs.
43. Finally, a drop in the prices of production factors is also relevant. Some studies suggest that, when there is an imbalance of power in the trading relations between a platform and labour providers, it can push the whole labour market into a low-wage scenario, particularly in labour-intensive activities.⁴⁵ If a platform acted in this way, prices on the market would fall and force traditional companies to confront a market transformation for which their cost structures might not be prepared.⁴⁶ In that respect, the costs associated with working conditions and social protection are key elements. Hence, to the extent that the classification of workers determines these costs, it becomes an essential factor in fair competition between platforms and traditional companies. There have already been cases in which commercial courts have issued judgments that the classification of workers as self-employed constitutes unfair competition by a platform vis-à-vis other companies.⁴⁷

⁴² In [Case T-612/17](#), the European Union Court of Justice confirmed a fine of €2.42 billion imposed on Google for abusing its dominant position by favouring its own product comparator over that of third parties. Likewise, the [Chinese regulatory authorities fined Alibaba €2.308 billion](#) [in Spanish] for demanding exclusivity from companies using it to sell their products.

⁴³ Bulchand and Melián, *La revolución de la economía colaborativa*.

⁴⁴ Lina Khan, "Amazon's Antitrust Paradox", *The Yale Law Journal* 126, No. 3 (2017), 710–805.

⁴⁵ Dafna Bearson, Martin Kenney and John Zysman, "Measuring the Impacts of Labor in the Platform Economy: New Work Created, Old Work Reorganized, and Value Creation Reconfigured", *Industrial and Corporate Change* 30, No. 3 (2021), 536–563, 558.

⁴⁶ OECD, *Good Jobs for All in a Changing World of Work: The OECD Jobs Strategy*, 2018.

⁴⁷ [Judgment of the French Court of Cassation, 12 January 2022](#) [in French].

► 4. Work in the platform economy

4.1. Number of people in employment with platforms that provide work

44. Knowing exactly how many platform workers there are in the world, or even in a particular country, presents a considerable challenge. The main problem is that *hardly any official statistical surveys exist on this subject, nor is there any universal agreement on what constitutes a platform worker*.⁴⁸ Nonetheless, some studies have identified 14 surveys (6 of them official) which estimate the number of platform workers worldwide as varying between 0.3 and 22 per cent of the adult population.⁴⁹ However, other studies⁵⁰ point to the difficulties that this method entails for measuring platform work, given the amount of variation in the questions, reference periods, time frames and sample sizes used. Priority is thus given here to the official surveys, although in fact they too suffer from similar flaws.
45. The data gathered from these surveys are shown in table 2. It can be seen that when a survey question refers specifically to the performance of tasks or provision of services via platforms, the number of workers does not exceed 4 per cent. This outcome is close to that noted by the Organisation for Economic Co-operation and Development (OECD),⁵¹ which estimated the number of platform workers at between 1 and 3 per cent of all workers.

► **Table 2. Official statistics on platform workers**

Country	Survey date	Reference period	Title of survey	Type of platform work	Percentage of platform work
Canada	November 2015–October 2016	Previous 12 months	Fast-Track Labour Force Survey (LFS) Module – October 2016 Collection ¹	Providing transport services	0.3%
Denmark	January–March 2017	Previous 12 months	Denmark LFS ²	Working via the web or a mobile app	1%
European Union	April 2018	Regularly (at least once per month)	Flash Eurobarometer 467 ³	Providing platform-based services	1%
Finland	2017	Previous 12 months	Finland LFS 2017 ⁴	Obtaining income via work platforms or capital platforms	7%

⁴⁸ The [Resolution concerning statistics on work relationships](#), adopted by the 20th International Conference of Labour Statisticians in 2018, called for work to “undertake further conceptual and methodological development work on the measurement of workers whose employment is intermediated through Internet-based platforms or apps”, para. 140(f).

⁴⁹ ILO, *World Employment and Social Outlook 2021*, 19 and 49.

⁵⁰ Eurofound, “Mapping the contours of the platform economy”, Working Paper WPEF19060, 2019.

⁵¹ Cyrille Schweltnus et al., “Gig economy platforms: Boon or Bane?”, OECD Economics Department Working Papers No. 1550, 2019, 8.

Country	Survey date	Reference period	Title of survey	Type of platform work	Percentage of platform work
France	2017	Reference week	Ad Hoc module of European LFS (6th wave sample)	Self-employed persons whose main task is to contact clients via platforms or a third-party business	0.8% of persons in work
Switzerland	2019	Previous 12 months	Swiss LFS ⁵	Providing taxi and other services via a platform or mobile app	0.4%
United States	May 2017	Reference week	Bureau of Labor Statistics, Contingent Worker Supplement	Using a platform to perform tasks physically or online	1%
United States	November 2017	Previous 6 months	CPS Computer and Internet Use Supplement	Offering capital services or work via the internet	6%
United States	November–December 2017	Previous month	FED Report on the Economic Well-Being of US Households in 2017. Survey of Household Economics and Decision-making (SHED)	Obtaining a second income via online tasks or transport services	4% (online tasks) and 2% (transport services)

¹ Statistics Canada, “The sharing economy in Canada”. ² University of Copenhagen, Employment Relations Research Centre (FAOS), “Digitalization of work and digital platforms in Denmark”. ³ European Union, “Collaborative economy in the EU”. ⁴ Statistics Finland, “Labour Force Survey 2017”. ⁵ Federal Statistical Office, “Internet-mediated platform services”.

Source: Prepared by the authors.

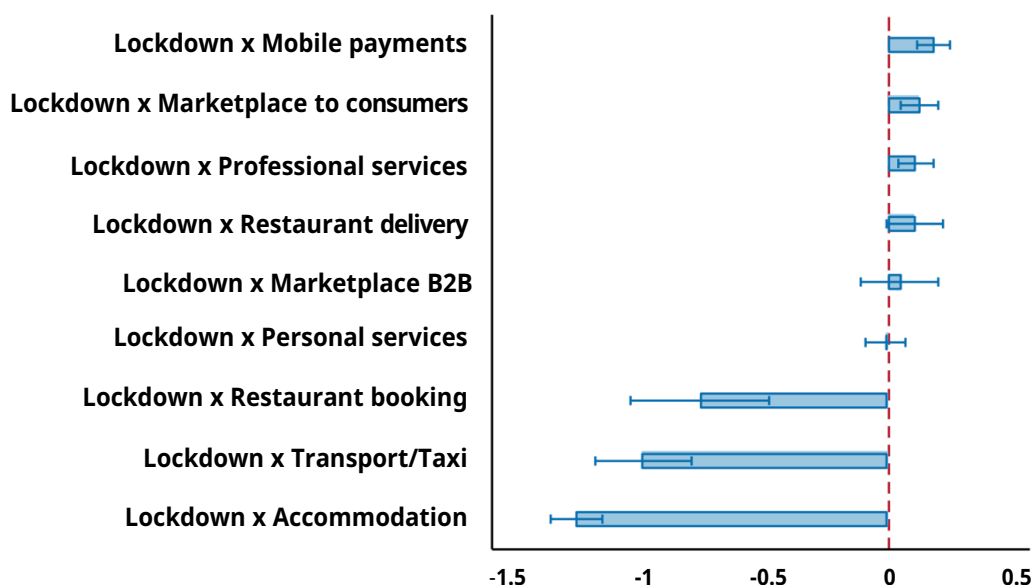
4.2. Impact of the COVID-19 pandemic on the platform economy

- 46.** During the pandemic, platforms made an important contribution towards maintaining activities considered to be essential to the general public, such as the delivery of medicines but, in terms of employment, it is likely that COVID-19 had a more ambiguous impact. Some studies note that platform-provided services requiring physical proximity suffered a significant decline, which may have led to significant job losses among workers.⁵² This is the case with the transport, catering and restaurant reservation services provided via platforms,⁵³ and also personal care services.

⁵² Maryam Batool et al., “How COVID-19 has shaken the sharing economy? An analysis using Google trends data”, *Economic Research-Ekonomska Istraživanja* 34, No. 1 (2021), 2374–2386.

⁵³ OECD, “The role of online platforms in weathering the COVID-19 shock”, *OECD Policy Responses to Coronavirus (COVID-19)*, 2021.

► **Figure 4. Impact of COVID-19 on platform-based activity in OECD countries**



Source: OECD, "The role of online platforms in weathering the COVID-19 shock".

47. With regard to personal care services, studies conducted in Spain and Argentina report falls of 72 and 66 per cent, respectively, in one-off care services, and 66 per cent in Argentina in medium- to long-term services (by contrast, in Spain there was an increase of 160 per cent, presumably because of the high mortality rate in residential homes for the elderly and the shift towards caring for the elderly in their own homes using care staff hired through platforms).⁵⁴
48. However, for other types of platforms, the health crisis had the effect of increasing their activities and the activities of those working in them. This happened with delivery platforms, which, after a slight decline at the start of the pandemic, bounced back strongly during it to the extent that in many countries they came to be regarded as essential. Very recent studies note two likely positive effects of this upturn in activity: (i) these platforms replaced the work lost in other sectors due to the pandemic; and (ii) with regard to the persons already providing services for these platforms, the number of requests increased and so did the workers' income.⁵⁵
49. Similar effects can be seen, for example, in studies carried out in Argentina. They note that: (i) in situ platform work during the pandemic offered one of the few work opportunities for those who had lost their jobs; (ii) demand for delivery services practically doubled between April 2019 and April 2020; and (iii) there was a 15 per cent increase in deliveries with respect to the preceding year.⁵⁶ These results coincide with those from other studies. In Spain and Latin America, the respective increases in delivery platform activities were 103 and 259 per cent (supermarket purchases), 28 and 209 per cent (meal deliveries), and 78 and 141 per cent (mail and parcels). In Spain, the number of platform delivery staff increased by 16.5 per cent and in Latin America by 38 per cent.⁵⁷ The OECD and G20 countries saw a 20 per cent increase in platform activities

⁵⁴ Digital Future Society and Inter-American Development Bank (IDB), *Platform economy and COVID-19: A look at delivery, home care and online freelance work in Spain and Latin America*, 2021.

⁵⁵ Dominika Polkowska, "Platform work during the COVID-19 pandemic: A case study of Glovo couriers in Poland", in *European Societies* 23, Sup. No. 1 (2021), S321–S331.

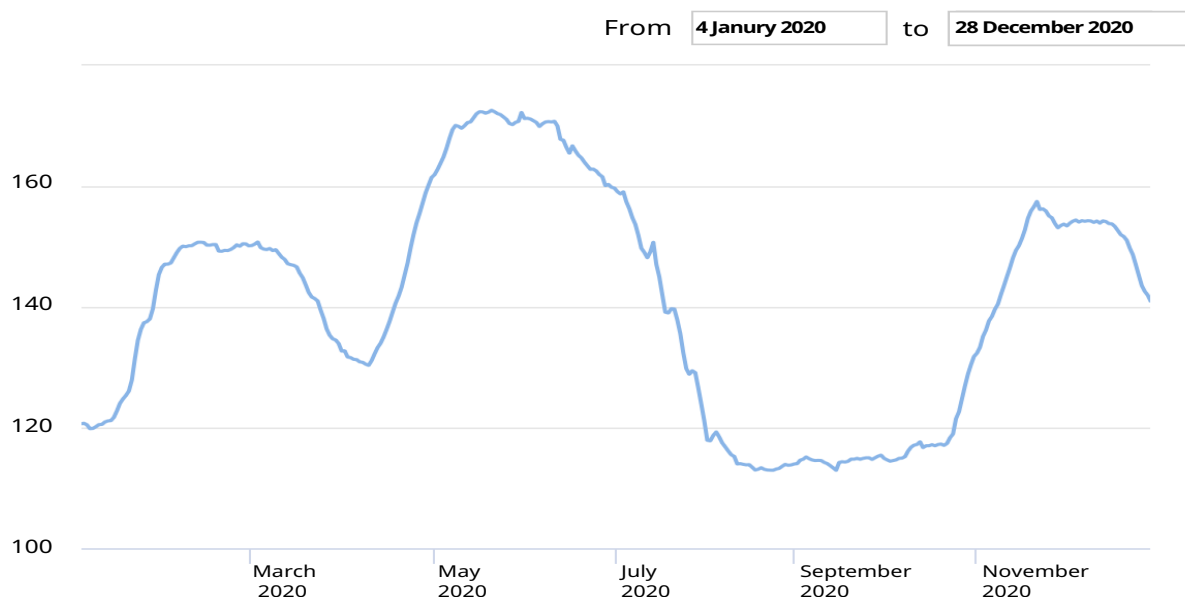
⁵⁶ ILO, *Delivery work in a pandemic: Delivery platform workers in Argentina*, Executive summary, 2020.

⁵⁷ Digital Future Society and IDB, *Platform economy and COVID-19*.

(payments, product purchases and home food deliveries) during the first six months of the pandemic.⁵⁸

50. Furthermore, there is consensus on the increase in online platform work during the pandemic.⁵⁹ According to data from the Online Labour Index, a significant increase was seen in these activities from March 2020, and a decline once the months of lockdown were over.

► **Figure 5. Demand for work on online platforms during the initial months of the pandemic**



Source: Online Labour Index.

4.3. Profile of platform workers

51. As already noted in section 2.2, platform workers do not conform to a single stereotype. Although most of the research focuses on work for delivery or transport platforms, the fact is that many profiles coexist across this category. With regard to their economic dependence on a platform, some studies classify these people as “professionals” (platform work is their main income source), “flexible” (they complement part-time income with platform work) and “moonlighters” (they are looking to add income to what they already receive from full-time work).⁶⁰ All the estimates indicate that, apart from the taxi and delivery sectors, the majority of platform workers belong to the last two classifications, there being only a minority of platform “professionals”.⁶¹

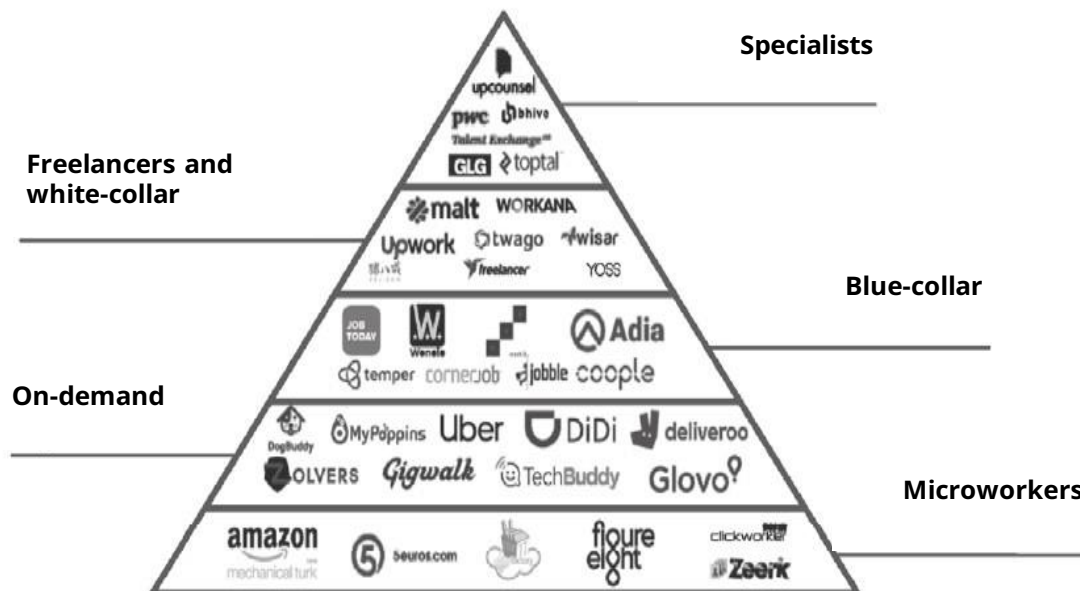
⁵⁸ OECD, “The role of online platforms in weathering the COVID-19 shock”.

⁵⁹ Uma Rani and Rishabh Kumar Dhir, “Platform Work and the COVID Pandemic”, *The Indian Journal of Labour Economics* 63, No. 1 (2020), 163–171; Muhammad Umar, Yan Xu and Sultan Sikandar Mirza, “The impact of Covid-19 on Gig economy”, *Economic Research-Ekonomika Istraživanja* 34, No. 1 (2021), 2284–2296.

⁶⁰ Albert Cañigüeral, “Perfiles del trabajo en plataformas digitales”, in *Tecnología y Trabajo: el impacto de la revolución digital en los derechos laborales y la protección social*, ed. María Luz Rodríguez Fernández, 159–174 (Navarra: Thomson Reuters, 2021).

⁶¹ Huws et al., *Work in the European Gig Economy*; Maria Cesira Urzi Brancati, Annarosa Pesole and Enrique Fernández Macías, *New evidence on platform workers in Europe: Results from the second COLLEEM survey* (Publications Office of the European Union, 2020).

► Figure 6. Platforms and types of platform work



Source: Cañigual.

52. Nonetheless, it is possible to summarize their main characteristics.
53. Platform work is *predominantly male*. Some studies estimate that one in three platform workers is a woman; in developing countries, the proportion is one in five.⁶² At in situ platforms, women represent less than 10 per cent of all workers.⁶³ The majority of platform workers are thus males. Even so, it is regularly contended that platform work enables those who find it hardest to enter the labour market, including women, to find work. The reason for this is that online platforms offer the possibility to work from home and thus to balance working and home life more easily. In fact, among those who work on online platforms because they can do so from home and attend to family responsibilities, 13 per cent are women and 5 per cent men.⁶⁴
54. However, opportunities for women to work for platforms mostly depend on whether they have access to digital technology, something that is not the case in every country, and on shattering the existing gender stereotypes affecting certain occupations.⁶⁵ Moreover, *perceiving platform work as a formula that allows women to combine work and family responsibilities can mean that this work continues to perpetuate the gender roles and inequalities* present in the labour market and society.⁶⁶
55. Platform workers are *younger than the overall working population*. Across the European Union, the average age of all employees is 42.4 years (OECD.Stat), while that of those working for a platform

⁶² Janine Berg et al., *Digital labour platforms and the future of work: Towards decent work in the online world* (ILO, 2019), xvi.

⁶³ ILO, *World Employment and Social Outlook 2021*, 137.

⁶⁴ Berg et al., *Digital labour platforms and the future of work*, xvi.

⁶⁵ Ria Kasliwal, "Gender and the Gig Economy: A Qualitative Study of Gig Platforms for Women Workers", *ORF Issue Brief* No. 359, 2020.

⁶⁶ Bogliacino et al., "Quantity and quality of work in the platform economy".

at least once per month is 33.9 years.⁶⁷ Also, the average age of workers across the world is 39.5 years (ILOSTAT), and that of online platform workers is 33.2 years.⁶⁸

56. Although the differences in types of platforms, levels of national development and ages of workers make educated comparisons difficult, it is possible to see that, both in the European Union and across the world, platform workers *have a higher level of education than other workers*. In some cases, there is even a mismatch between the level of education of workers and the tasks they perform for platforms. As the following table shows, whereas 50 per cent of platform workers in the European Union have an advanced education, for all workers this figure falls to 35 per cent. On the other hand, 63 per cent of online platform workers have an advanced education and only 25 per cent of workers across the world are at that level. It can also be seen that there are differing levels among platform workers themselves, since online platform workers generally have a much higher level of education than those working for taxi or delivery platforms.

► **Table 3. Educational levels of platform workers (in per cent)**

Level	Europe (ILOSTAT)	Urzi Brancati	World (ILOSTAT)	ILO *		
				Online	Taxi	Delivery
Basic	17	15	44	2	31	28
Intermediate	47	35	30	37	79	76
Advanced	35	50	25	63	24	21

* ILO, *World Employment and Social Outlook 2021*.

57. It is estimated that 17 per cent of online platform workers are migrants, although this proportion is greater in developed countries (38 per cent) than in developing ones (7 per cent). On taxi and delivery platforms, the percentage of the migrant population is uneven. While only 1 per cent of taxi platform workers are migrants, this level reaches 15 per cent on delivery platforms.⁶⁹ In this latter sector, in certain countries of Latin America the proportion of the migrant population is much higher, mainly as a consequence of people arriving from the Bolivarian Republic of Venezuela for whom platform work is in many cases the only source of income as well as attractive because of the low barriers to entry.⁷⁰ In any case, since the ILO⁷¹ estimates that migrants account for 4.9 per cent of global employment, it seems that within platforms, especially those engaged in online activities and deliveries, *migrants are overrepresented*.
58. It is also commonly asserted that the platform economy could be a significant source of income for refugees. However, experience has shown that this is not always feasible. The lack of any technological infrastructure in places where refugees live and of digital skills among many of them makes it very unlikely that platform work could offer a means of obtaining an income.⁷² *Moreover, platform work, for both migrants and refugees, would mean integration into the world of*

⁶⁷ Urzi Brancati, *New evidence on platform workers in Europe*.

⁶⁸ Berg et al., *Digital labour platforms and the future of work*.

⁶⁹ ILO, *World Employment and Social Outlook 2021*, 139.

⁷⁰ ILO, *El aporte de las personas refugiadas y migrantes venezolanas en los servicios esenciales de reparto de alimentos y medicina durante la pandemia de la COVID-19*, 2021.

⁷¹ ILO, *ILO Global Estimates on International Migrant Workers: Results and Methodology*, third edition, Executive summary, 2021.

⁷² ILO, *Digital Refugee Livelihoods and Decent Work: Towards Inclusion in a Fairer Digital Economy*, 2021.

marginal work, in the sense of remaining confined to doing that kind of work and not having access to other types of work.

59. Platform work also permits so-called “digital nomadism”. This is where people work entirely online and are able to do so from any place they choose on the planet – something that is possible when working with online platforms. This can represent an economic opportunity for some countries, which attract these workers, by virtue of their climate or culture, so that they generate new fields of activity and employment. Such is the case, for example, in Estonia or Barbados. However, in practice this is not without its challenges. In some places it can lead to gentrification processes involving a rise in rents or house prices. As to the workers, studies have documented difficulties in obtaining a stable income and insecurity concerning the application of regulations on labour and social protection.⁷³
60. Platform work can also go beyond national boundaries without having to do so physically. Some countries and regions of the world have migration policies which restrict the entry, residence and work of migrants within their borders. Online platform work can be done from anywhere in the world and involve “entry” to work in any part of the world, without regard to the restrictions on migration that might exist there.⁷⁴ *This calls into question the ability of the nation State to regulate its own labour market.*
61. Finally, there is an informal element in the platform economy, just as in other parts of the economy. As far as we know, there is no evidence that activities performed via the platform economy are more exposed to informality than those outside it. Informality in the activities of the platform economy can depend on many factors. Thus, when workers derive their main income from non-platform activities and declare it for the purposes of paying taxes and contributions, they might not think it necessary to report any additional activities they are performing via a platform. Self-employed people, some of whom deliberately fail to declare their activities, would have less trouble in finding markets for their services through the platform economy, particularly if the tasks involved were small in scale. In some regions, there is also empirical evidence of involuntary non-compliance by self-employed workers. Some European Union⁷⁵ estimates reveal that the majority of the problems encountered by self-employed people operating in the platform economy relate to: (i) lack of clarity on how to provide a service legally (claimed by 22 per cent); (ii) complicated tax payment systems (19 per cent); (iii) the perception that it is complicated or difficult to provide a service legally (13 per cent); and (iv) lack of clarity over employment status (9 per cent).⁷⁶ Informality in the platform economy may also be related to the non-recognition of the employment relationship between platforms and workers, a point which is examined below.
62. However, platforms can also offer advantages for reducing informality.⁷⁷ If anything characterizes platform work it is its complete traceability, in the sense that all the data on the task being performed, the time that it takes and the profit made by the workers are retained. If platforms provided this information to the appropriate authorities, the work done could be formalized and recorded together with the corresponding taxes and social security contributions,

⁷³ Beverly Yuen Thompson, “Digital Nomads: Employment in the Online Gig Economy”, *Glocalism: Journal of Culture, Politics and Innovation* 1 (2018).

⁷⁴ Christophe Degryse, “Digitalisation of the Economy and its Impact on Labour Markets”, European Trade Union Institute (ETUI) Working Paper 2016.02 (2016).

⁷⁵ European Union, “Collaborative economy in the EU”.

⁷⁶ Colin Williams, Mireia Llobera Vila and Adrian Horodnic, “[Tackling Undeclared Work in the Collaborative Economy and Bogus Self-Employment](#)”, European Platform tackling undeclared work, Working Paper, 2020.

⁷⁷ Bulchand and Melián, *La revolución de la economía colaborativa*.

and the relevant rights would ensue for the workers. But this would require the establishment of new legal frameworks obliging platforms to provide information on all transactions carried out, as well as the necessary institutional enforcement capacity, which not all countries possess. Recommendation No. 204 provides further guidance on reducing informality.

4.4. Opportunities for job creation in the platform economy

- 63. Some studies suggest that the number of platform workers in the world will increase from 43 million in 2018 to 78 million in 2023.⁷⁸ What can be said with certainty is that it is not easy to know how many jobs the platform economy will create in the medium to long term. *The research points rather to a pattern of creation/destruction/transformation whose likely impact on employment is open to interpretation, but what counts is the net final effect.*⁷⁹ Nevertheless, it may be said that platforms can affect employment quantity and quality in three ways: (i) changes to prices; (ii) changes in efficiency; and (iii) the creation of jobs that did not exist before.
- 64. It has been said (section 3.5.2) that platforms can modify the demand for a particular good or service by subsidizing its price. The best-known example is platform-based intermediate taxi services, whose prices regularly undercut those of licensed taxis. This generates movements along the demand curve and a broader market since more people will be willing and able to pay for taxi services.⁸⁰ The following table shows how Uber and Lyft gained market share at the expense of taxis,⁸¹ but also how the size of the market almost doubled in five years. Something similar has been shown in the accommodation sector, where the arrival of Airbnb makes the market grow (greater availability of accommodation boosts tourism and the hotel trade as well as employment in those sectors), but ultimately leads to job losses in the more vulnerable types of accommodation.⁸²

► **Table 4. Daily journeys in New York City (in miles)**

Year	Uber	Lyft	Taxi	Total
2016	140	17	422	579
2017	254	41	377	672
2018	382	98	336	816
2019	484	152	286	921
2020	520	175	232	927

Source: Todd W. Schneider, "Taxi, Uber, and Lyft Usage in New York City".

- 65. Broadening the market for a given good or service can entail more job creation, but not necessarily the creation of better employment. If price lowering and market extension are the result of efficiency improvements, the jobs created can be good ones (or, at least, as good as they were before). However, *price lowering and market extension can also be a consequence of lower*

⁷⁸ Mastercard, *Fueling the global gig economy: How real-time, card-based disbursements can support a changing workforce*, 2020.

⁷⁹ OECD, *Measuring Platform Mediated Workers*, 2019.

⁸⁰ OECD, *Measuring Platform Mediated Workers*.

⁸¹ Concerning the impact on taxi drivers' incomes, see Vox, "New York City cracks down on Uber and other ride-hailing apps".

⁸² Georgios Zervas, Davide Proserpio and John W. Byers, "The Rise of the Sharing Economy: Estimating the Impact of Airbnb on the Hotel Industry", *Journal of Marketing Research* 54, No. 5 (2017), 687–705.

*incomes, lower social protection outlay and poorer working conditions. In that case, there may be more jobs, but they will be poorer jobs.*⁸³

66. Where platforms are concerned, the results are ambiguous. For in situ platforms, studies show that, in the taxi sector, the platform drivers in some countries earn between 22 and 86 per cent more than taxi drivers working outside platforms. In the delivery sector, while there are countries where earnings are lower, in others the delivery drivers earn up to 39 per cent more than colleagues who do not work for platforms.⁸⁴ Other studies⁸⁵ also report higher incomes for platform workers compared with their fellow workers outside platforms: 4.8 per cent more in the house repairs sector, 6.56 per cent more in transport and 15.71 per cent more in social welfare.
67. However, at *online platforms*, some studies show that the use of their monopsony power can reduce workers' earnings by some 20 per cent.⁸⁶ Other studies estimate that *a significant proportion of platform workers are paid an hourly rate lower than the local hourly minimum wage.*⁸⁷ Finally, there are studies which show (using data from the United States and the European Union) that platform workers receive 66 per cent less income per hour than those doing comparable work⁸⁸ outside platforms.⁸⁹
68. Certain occupations, such as content moderator for social networks or artificial intelligence trainer, would not exist or would be marginal were it not for social platforms.⁹⁰ However, it is not easy to measure the volume of these new occupations. Some research indicates that a third of new jobs created (in the United States) over the past 25 years in areas such as the development and management of technological systems, hardware manufacture or mobile app creation did not exist before or were in their infancy.⁹¹ Of course, the number of jobs that platforms have created can be assumed to be much lower, but there is no doubt that a proportion of new jobs is due to their emergence.

► 5. The legal debate over the classification of platform workers

69. Although some platforms opt to use employment contracts when hiring platform workers, most describe themselves as technological intermediaries and classify their workers as self-employed. Using one or other formula is no trivial matter. The employment contract is the institution which grants workers a greater level of labour and social protection, and those without an employment contract who are also self-employed do not enjoy the same level of protection. The classification of workers is also relevant for the purposes of fair competition among enterprises, to the extent that it evens out, or otherwise, the costs of the labour they employ. Finally, worker classification is also important to governments since it determines the social contributions and taxes they

⁸³ OECD, *Measuring Platform Mediated Workers*.

⁸⁴ ILO, *World Employment and Social Outlook 2021*, 160–163.

⁸⁵ Willem Pieter De Groen and Ilaria Maselli, "The Impact of the Collaborative Economy on the Labour Market", *CEPS Special Report* No. 138 (2016).

⁸⁶ Arindrajit Dube et al., "Monopsony in Online Labor Markets", *American Economic Review: Insights* 2, No. 1 (2020), 33–46.

⁸⁷ Berg et al., *Digital labour platforms and the future of work*.

⁸⁸ Comparable because they perform the same tasks and are similar in age and skills.

⁸⁹ Michele Cantarella and Chiara Strozzi, "Workers in the Crowd: The Labour Market Impact of the Online Platform Economy", *Industrial and Corporate Change* 30, No. 6 (2021), 1429–1458.

⁹⁰ Berg et al., *Digital labour platforms and the future of work*.

⁹¹ McKinsey Global Institute, "Technology, Jobs, and the Future of Work".

collect.⁹² Consequently, there have been occasions when the classification of platform workers as self-employed has been questioned, resulting in: (i) a significant number of court rulings; and (ii) many attempts to classify platform work. *All of these refer to in situ platform workers and none to online platform workers.* However, the latter also question their classification – some studies⁹³ note that the majority of online platform workers are classified as self-employed but regard themselves as dependent workers.

5.1. Legal reasoning for classifications

70. Since the large number of court rulings on platform worker classification prevents us from listing them all, we have decided to reference only the best-known ones here.

► **Table 5. Court rulings on platform worker classification**

Judgment of the United Kingdom Supreme Court concerning Uber drivers, 19 February 2021 ¹	<p>Status: Dependent</p> <p>Arguments: The drivers have a dependent relationship with Uber because it is Uber that decides how much they receive for their work, imposes contractual conditions, penalizes rejection of services and restricts communication between clients and drivers.</p>
Judgment of the High Court of Justice of Brazil concerning Uber drivers, 28 August 2019 ²	<p>Status: Self-employed</p> <p>Arguments: The drivers have a subordinate relationship because they provide their services on a casual basis, without a fixed schedule and do not receive a fixed wage.</p>
Judgment of the District Court of Pennsylvania concerning UberBLACK drivers, 11 April 2018 ³	<p>Status: Self-employed</p> <p>Arguments: The drivers are free to log into and out of the app, do not work exclusively for one platform and have the chance to make what profits they wish.</p>
Judgment of the California Supreme Court concerning Dynamex drivers, 30 April 2018 ⁴	<p>Status: Dependent</p> <p>Arguments: The business belongs to the company and the drivers are a part of the business: it is the company that finds clients, conducts advertising, determines the price, and says where parcels should be collected and delivered.</p>
Decision of the People's Court of Haidian District (China) concerning FlashEx delivery staff, 6 June 2018 ⁵	<p>Status: Workers</p> <p>Arguments: Workers have limited freedom to decide whether to accept requests or to determine their working hours; the platform derived profits from the work done by delivery staff.</p>
Judgment of the New Zealand Employment Court concerning Uber drivers, 17 December 2020 ⁶	<p>Status: Self-employed</p> <p>Arguments: Workers are not particularly vulnerable and do not lack understanding of what they have agreed to; it is they who determine when and for how long to log in and who supply the means needed to perform an activity, such as the vehicle or the data plan.</p>

⁹² OECD, *Good Jobs for All in a Changing World of Work*.

⁹³ Huws et al., *Work in the European Gig Economy*; Berg et al., *Digital labour platforms and the future of work*.

Judgment of the Spanish Supreme Court concerning Glovo delivery staff, 25 September 2020 ⁷

Status: Dependent

Arguments: Workers perform their activities under instruction from the platform and do not have the resources needed to carry out their activity; there is no genuine freedom or independence on their part.

Decision of the Australian Fair Work Commission concerning UberEats delivery company, 21 April 2020 ⁸

Status: Self-employed

Arguments: The platform does not exercise control over when and how much operatives work; the latter are not obliged to perform particular services, can accept services from competing platforms and do not present as an “offshoot” of the platform business, given that they do not have to wear its logo or uniform.

Judgment of the Court of First Instance of Montevideo (Uruguay) concerning Uber drivers, 14 February 2022 ⁹

Status: Dependent

Arguments: Priority must be given to the facts based on the designation that the parties have given to the contract; the platform’s activity is transport because its income depends on the number of journeys made by drivers; the latter are integrated in the organization of the enterprise, which, according to ILO Recommendation No. 198, indicates the existence of an employment contract.

¹ Judgment of the United Kingdom Supreme Court. ² Judgment of the High Court of Justice of Brazil [in Portuguese]. ³ Judgment of the District Court of Pennsylvania. ⁴ Judgment of the California Supreme Court. ⁵ Decision of the People’s Court of Haidian District (China). ⁶ Judgment of the Employment Court of New Zealand. ⁷ Judgment of the Spanish Supreme Court [in Spanish]. ⁸ Decision of the Fair Work Commission of Australia. ⁹ Judgment of the Court of First Instance of Montevideo (Uruguay) [in Spanish].

71. As can be seen from the table above, *there is no unanimity when it comes to classifying platform workers as either dependent or self-employed*. In a nutshell, the arguments put forward in favour of one or other classification are the following.
72. The decisions affirming the “self-employed” argument are based on the following: (i) the possibility for these workers to be substituted means that there is no requirement for a service that is individual, which is what would be needed for an employment contract to exist; (ii) platform workers do not operate exclusively for one of them, and thus their activity is more like the provision of services to several clients typical of the self-employed; (iii) platform workers enjoy independence in performing services, because they log in when they wish and work how much and when they wish, as well as being free to accept or reject a service; and (iv) workers obtain the profits that they wish to obtain, given that their income depends on the time they wish to spend logged in to the platform.
73. The decisions affirming the “dependent work” argument emphasize the following: (i) the position tracking to which these workers are subject enables traceability and complete control of the services they deliver, which is a sign of their dependence; (ii) freedom to accept or reject services means little if there is a system of grading and penalties in place which means that the worker is subjected to organizational and disciplinary measures by the platform; and (iii) the business does not belong to the worker but to the platform, since it is the latter which is the service provider in the eyes of the public, which consumers use to make contact and which defines the pricing policy and marketing strategy; the worker is a component part of this corporate machinery. ⁹⁴

⁹⁴ Some of these characteristics are present in the notion of “dependent contractor”, introduced in the resolution concerning statistics on work relationships, 2018. Dependent contractors are “workers who have contractual arrangements of a commercial

5.2. Initiatives taken to classify platform workers

74. The specialized literature features a number of options for classifying platform workers. The first is that of non-intervention by the legislator. It presupposes that there is no express regulation of platform work, and thus that classification as either dependent or self-employed should be left to the whim of the courts. This is a possible solution, but it could lead to legal uncertainty for both workers and platforms, since the classification of workers and the rights and costs involved will vary according to the view that judges adopt in each individual case.
75. A second solution is to establish intermediate forms between dependent worker and self-employed person, like the notion of “worker” in the United Kingdom or that of “economically dependent self-employed worker” [*trabajador autónomo económicamente dependiente*] in Spain. The idea behind this option is that platform work cannot be made to fit the features of dependent work or self-employment, and that it is thus necessary to have regulation specific to this type of employment. It is a possible solution, although consideration must be given to the fact that, in multiplying the number of worker categories, the legal uncertainty that can exist when assigning a worker to one category or another will also increase.⁹⁵
76. A third possibility is to strengthen the presumption that an employment contract exists and reverse the burden of proof so that it is the platform which must demonstrate the existence of genuine self-employment as a means of facilitating the classification of these workers as dependent.⁹⁶
77. Finally, there is the alternative of bypassing classification as dependent or self-employed workers and granting both classes the same labour rights and the same access to social protection.⁹⁷
78. The draft regulations on platform work which now exist in some countries⁹⁸ as well as some legislation illustrate the options described above.
79. [State of California Assembly Bill 5 \(AB-5\)](#), of 18 September 2019,⁹⁹ is an example of strengthening the presumption of an employment contract. Its existence is assumed, unless the employer demonstrates that it exerts no control over the platform worker, or the latter is running his/her own business, or the activity being performed is outside the platform’s main activity (SEC. 5). This option is also in [Law No. 12/2021](#) of 28 September 2021 [in Spanish], approved by Spain, wherein it is presumed that delivery and transport platform workers are dependent, since they are subject to implicit or indirect dependence on algorithms, although the platform is permitted to prove otherwise.
80. [Italian Law No. 128](#) of 2 November 2019 [in Italian] also strengthens the presumption that an employment contract exists for platform workers but adds a second option. Although platform

nature (but not a contract of employment) to provide goods or services for or through another economic unit. They are not employees of that economic unit but are dependent on that unit for organization and execution of that work, income, or for access to the market. They are workers employed for profit, who are dependent on another entity that exercises control over their productive activities and directly benefits from the work performed by them” (para. 35).

⁹⁵ María Luz Rodríguez Fernández, “Calificación jurídica de la relación que une a los prestadores de servicios con las plataformas digitales”, in *Plataformas digitales y mercado de trabajo*, ed. María Luz Rodríguez Fernández, 57–90 (Madrid: Ministry of Labour, Migration and Social Security, 2019).

⁹⁶ Huws et al., *Work in the European Gig Economy*.

⁹⁷ Valerio De Stefano, *The Rise of the “Just-In-Time Workforce”: On-Demand Work, Crowdsourcing and Labour Protection in the “Gig Economy”*, Conditions of Work and Employment Series No. 71 (ILO, 2016).

⁹⁸ [Australia](#), [Canada](#) and [Peru](#) [in Spanish].

⁹⁹ On 3 November 2020, [Proposition 22](#) was approved which overruled AB-5. However, on 20 August 2021 this law was declared unconstitutional by the [Supreme Court of California](#).

workers are self-employed, the Law provides that the collective agreement for the sector of activity must apply to them. If there is no collective agreement, the Law provides for a “minimum level of protection”, which consists of recognizing certain rights for self-employed platform workers, including payment of their industrial accident and occupational disease insurance (article 47-*septies*).

81. A similar option is found in [French Law No. 2016-1088](#) of 8 August 2016 [in French], where, on the basis of the concept of the platform’s “social responsibility” towards its workers, even those who are self-employed, it is obliged to pay any industrial accident insurance contributions that the worker may have been paying (article L. 7342-2), as well as recognize their right to vocational training and to join a union. Furthermore, [Law No. 2019-1428](#) of 24 December 2019 [in French], also drawing on the notion of social responsibility, provides that self-employed transport and delivery platform workers should have a “charter” in which the platform provides for “additional social protection guarantees” (article L. 7342-9).
82. The creation of a third type seems to be the solution in [Chilean Law No. 21431](#) of 8 March 2022 [in Spanish], which creates a “contract for independent digital platform workers” within its Labour Code in order to grant them rights, including that of collective bargaining. Finally, the [Indian Social Security Code](#), approved in September 2020, goes beyond the issue of the classification of platform work as it regulates the social protection of platform workers without regard to their classification as dependent or self-employed, in particular by providing for insurance against accidents, death, incapacity or retirement, as well as health and maternity benefits (article 114). For its part, the [Opinion concerning protection of the rights and interests of platform workers](#), adopted in China on 7 July 2021, extends the right to the local minimum wage to all platform workers, whether dependent or self-employed. Likewise, in the Republic of Korea, approval has been given to a [reform of unemployment insurance](#) (December 2020) whereby platform workers will be entitled to such insurance and a platform will have to notify their insurance and withhold and pay the relevant contributions.
83. At the supranational level, the initiatives of the European Union and the OECD stand out. The European Union has a [draft directive](#) in which: (i) there is presumption of the existence of an employment contract between worker and platform; and (ii) the burden of proof is reversed so that the platform must demonstrate that genuine self-employment is involved. The OECD has developed recommendations to ensure that Member States address platform work, including by: (i) ensuring correct classification; (ii) reducing the incentives that induce companies to use an incorrect form of platform work classification in order to avoid paying taxes and social security contributions; and (iii) extending labour rights and access to social protection to workers caught in the grey areas between dependent and self-employed work.¹⁰⁰
84. Furthermore, ILO Recommendation No. 198 includes provisions that could be applied in classifying platform workers, including: (i) the primacy of the facts relating to the performance of work over the *nomen iuris* that the parties may have given to their agreements (Paragraph 9); (ii) the call on Members to facilitate the identification of the employment relationship by, among other possibilities, providing for a legal presumption of its existence where one or more relevant indicators is present (Paragraph 11(b)); or (iii) the provision that Members should develop effective measures aimed at removing incentives to disguise an employment relationship (Paragraph 17) and at ensuring that an employment relationship can be effectively identified when transnational services are provided (Paragraph 22).

¹⁰⁰ OECD, *Policy Responses to New Forms of Work*, 2019.

► 6. Working conditions and access to social protection for platform workers

85. The diversity of in situ and online platform work is also reflected in their working conditions. However, there is also a set of working conditions that are common to platform work where gender is concerned, and thus shared by people working for both types of platforms.

6.1. Differing conditions in online and in situ platforms

86. Although the majority of workers use platform work as an additional source of income (see sections 2.2 and 4.3), this situation is clearly predominant at online platforms and much less evident at in situ platforms. With the former, it is estimated that 70 per cent of workers are topping up their income; with the latter, the majority (84 per cent and 90 per cent for taxis and deliveries, respectively) obtain their main income from a platform.¹⁰¹

87. The second difference is the amount of income. According to the available studies (section 4.4), online platform workers earn less than workers who do the same job outside platforms, whereas taxi or delivery platform workers have much higher earnings than those in the same job who do not work on platforms. Overall, where income is concerned, the essential difference lies in the online platforms. Their service providers can range from highly qualified and independently operating freelancers to workers engaged in menial tasks. This bipolarity in online platforms¹⁰² leads to polarization in the incomes that both types derive from them, especially in countries like India or the United States, where workers engaged in menial tasks receive around 64 and 81 per cent less, respectively, than workers doing similar jobs in the conventional labour market.¹⁰³

88. The third difference is working time. Platform work is presented as a formula which enables the worker to manage working time. The idea behind this is that the worker is free to log into the platform, or not, and to decide when and how long to be connected. This autonomy is among the working conditions most prized by platform workers.¹⁰⁴ Working time and how it is distributed are thus at the worker's discretion. However, online platform workers have a 27-hour working week on average, while that of taxi and delivery platform workers is, respectively, 65 and 59 hours.¹⁰⁵ There is a clear difference between the two platform types when it comes to working hours.

89. However, certain nuances should be noted. It is very common for online platform workers to add their main occupation to this occupation, and thus to add up the time spent on both occupations. It is also common for online platform workers to work seven days a week (36 per cent) and at night (43 per cent).¹⁰⁶ This is similar to what in situ platform workers do, who, in addition to the number of hours just indicated, typically also work every day of the week with a working day that can exceed 12 hours.¹⁰⁷ *This means that platform work can extend working time far beyond the limits established in the ILO Forty-Hour Week Convention, 1935 (No. 47). It must be recognized that the nature*

¹⁰¹ ILO, *World Employment and Social Outlook 2021*, 158.

¹⁰² Rodríguez Fernández, "Calificación jurídica de la relación que une a los prestadores de servicios con las plataformas digitales".

¹⁰³ ILO, *World Employment and Social Outlook 2021*, 155.

¹⁰⁴ Huws et al., *Work in the European Gig Economy*; Berg et al., *Digital labour platforms and the future of work*.

¹⁰⁵ ILO, *World Employment and Social Outlook 2021*, 168.

¹⁰⁶ Berg et al., *Digital labour platforms and the future of work*.

¹⁰⁷ ILO, *World Employment and Social Outlook 2021*, 168.

*of this work, frequently performed as a supplement to another main occupation or for various platforms at the same time, constitutes a challenge to the application of this Convention and that, given this situation, a legal vacuum could arise with regard to the working-time limits of platforms.*¹⁰⁸

90. A final difference could be the wage gap between men and women. Some studies have found no significant differences between the sexes when it comes to earnings from online platforms, but that the gap can be as high as 17 per cent for in situ platforms in countries such as Chile and Argentina.¹⁰⁹ However, other studies *estimate that there is a 10.5 per cent difference between men's and women's incomes from online platforms*, although they can find no explanation other than that women prefer to perform lower-priced tasks because years of discrimination have led them to undervalue their own work.¹¹⁰ It must also be taken into account that at online platforms there is *occupational segregation*. In countries like Ukraine, men occupy themselves mostly with technology-based tasks, while women are engaged in translation or text editing.¹¹¹ For this reason, it would perhaps be worthwhile examining gender-based differences in income in the light of Convention No. 100, which urges all Member States to ensure the application of the principle of equal remuneration for work of equal value.

6.2. Conditions common to online and in situ platforms

91. Workers at both types of platforms indicate that there is a lack of available work. This is the case for 86 per cent of online platform workers and 69 per cent of in situ platform workers.¹¹² It can happen at times because platforms register far more workers than they need to perform the tasks they are offering, which leads to underemployment and price depression.¹¹³ Lack of available work may be the cause of a prolongation of working time (section 6.4). Where there is a shortage of platform work, workers must spend an excessive amount of time online to obtain more services or tasks, and thus more income.
92. The second condition in common is the payment of fees to access platform tasks or services. This reduces workers' incomes and can act as a barrier preventing some from taking on platform work.¹¹⁴ Hence, some studies have proposed that such fees should be eliminated and some courts have issued decisions to that effect.¹¹⁵ Furthermore, the relative similarity between the activities of platform activities and those of private employment agencies has led to proposals that the former should be made subject to the same prohibition on charging fees or costs to workers as that imposed on private employment agencies by Article 7 of Convention No. 181.¹¹⁶

¹⁰⁸ ILO, *Ensuring decent working time for the future: General Survey concerning working-time instruments*, ILC.107/III(B), 2018, para. 756.

¹⁰⁹ ILO, *World Employment and Social Outlook 2021*, 165. In both countries, the gender pay gap between men and women is less than that found in platforms, see ILO, *Global Wage Report 2018/19: What lies behind the gender pay gap?*

¹¹⁰ Leib Litman et al., "The Persistence of Pay Inequality: The Gender Pay Gap in an Anonymous Online Labor Market", *PLOS ONE* 15(2) (2020).

¹¹¹ Mariya Aleksynska, Anastasia Bastrakova and Natalia Kharchenko, *Work on Digital Labour Platforms in Ukraine: Issues and Policy Perspectives* (ILO, 2018).

¹¹² ILO, *World Employment and Social Outlook 2021*, 147 and 152.

¹¹³ Mark Graham et al., *The Risks and Rewards of Online Gig Work at the Global Margins* (Oxford: Oxford Internet Institute, 2017).

¹¹⁴ ILO, *World Employment and Social Outlook 2021*.

¹¹⁵ Valerio De Stefano, "Time to stop platforms from charging recruitment fees to workers", *Global Workplace Law & Policy* (2019).

¹¹⁶ The following may also be applicable: ILO, *General principles and operational guidelines for fair recruitment and Definition of recruitment fees and related costs*, 2019, including general principle 7: "No recruitment fees or related costs should be charged to, or otherwise borne by, workers or jobseekers."

93. A third condition in common is the helplessness that platform workers experience when faced with non-payment by clients. It frequently happens that, when previously requested services are cancelled or work completed via an online platform is rejected, workers forgo the relevant income without having recourse to complaint procedures to address such behaviour.¹¹⁷ It should be remembered that, for many workers, a platform is an unfamiliar and distant entity, about which they know only the name and the ID that they use to log on.¹¹⁸ This complicates relations between workers and platforms because there are virtually no channels of communication between them other than virtual ones. The situation is exacerbated by client behaviour such as that described, because it is then virtually impossible to file any complaint. For this reason, some studies on platform work recommend that there should be more transparency in the information that workers are given about the platform itself and the clients for whom they perform services, and that mechanisms should be set up to resolve disputes between clients and workers, and between clients and platforms.¹¹⁹
94. The fourth working condition in common is the impact on workers' health. Evidence exists that platform work can exacerbate certain occupational hazards, especially in the psychosocial sphere.¹²⁰ Spending excessive amounts of time logged on in order to find sufficient work can increase the physical risks to online platform workers, both cardiovascular, because of the physical inactivity, and from eye problems, not to mention technostress and cyberbullying. The same happens to in situ platform workers, for whom any prolongation of the time spent available for work and the uncertainty of finding sufficient services and income can lead to situations of fatigue and stress. Finally, the fact that workers for both types of platforms are submitted to "ratings" by customers and to algorithmic decisions which determine their activities and their income (this happens to 83 per cent of online platform workers and 72 and 65 per cent, respectively, of taxi and delivery platform workers)¹²¹ further increases the risks of anxiety and stress.
95. The above-mentioned issues could be rectified by applying some of the provisions of Convention No. 155,¹²² including: (i) the duty of employers to "provide where necessary adequate protective clothing to prevent ... risks of accidents or of adverse effects on health" (Article 16(3)); (ii) provision made by employers for "measures to deal with emergencies and accidents" (Article 18); and (iii) the adoption of provisions to ensure that "workers ... are given appropriate training in occupational safety and health" (Article 19(d)). In the case of platforms, it also happens that the work is located not at the employer's premises but at the place where the worker performs tasks or services for it. For this reason, platform work could also be made subject to the provision in Article 7 of Convention No. 177¹²³ which states, duly adapted, that national legislation on safety and health at work must apply equally to workers who perform their tasks away from the employer's premises.

¹¹⁷ Huws et al., *Work in the European Gig Economy*.

¹¹⁸ Kristy Milland, "Slave to the Keyboard: The Broken Promises of the Gig Economy", *Transfer: European Review of Labour and Research* 23, No. 2 (2017), 229–231.

¹¹⁹ An example of such a mechanism is the [Ombuds Office](#) created following the adoption of the [Crowdsourcing Code of Conduct](#), to which several platforms in Germany have subscribed.

¹²⁰ Karolien Lenaerts et al., *Digital platform work and occupational safety and health: A review* (Publications Office of the European Union, 2021).

¹²¹ ILO, *World Employment and Social Outlook 2021*, 179–181.

¹²² A fundamental Convention following the inclusion by the International Labour Conference, in June 2022, of the right to a safe and healthy working environment as the fifth category in the ILO's framework of fundamental principles and rights at work.

¹²³ ILO, *Promoting employment and decent work in a changing landscape*, ILC109/III(B), 2020, para. 627.

6.3. Data protection and algorithmic management

96. Platforms capture a vast amount of data on workers, from where they are at a given moment to the web pages that they visit. These data constitute a sizeable source of income for the platforms, which does not go to the workers. Some data are used to monitor work and its use is lawful. But other data can affect workers' private lives and their use can be unlawful. There is a thin line between one area and the other, but crossing it means violating the fundamental right to privacy. This is a universal basic right, recognized as such by Article 12 of the Universal Declaration of Human Rights, which states that "no one shall be subjected to arbitrary interference with his privacy". The right to protection of data is understood to form part of the right to privacy, to the extent that protecting personal data strengthens the protection of private life. However, the advances made by platforms and their capacity to capture data have led to growing concern about the protection of workers' personal data, and legal instruments on data protection are appearing or being reassessed in virtually every region of the planet.¹²⁴
97. Examples of these are the [OECD Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data](#) (revised in 2013), which have had a decisive influence on initiatives taken in many parts of the world, and the [General Data Protection Regulation in Europe](#) (2016). But it is the [ILO code of practice on protection of workers' personal data](#) (1997) which could guide the actions of platforms in this regard, especially the application of the following basic rights: (i) to be informed about personal data being held and about its processing; (ii) having access to personal data regardless of whether it undergoes automated processing; (iii) the possibility to request the deletion or correction of inaccurate or incomplete personal data; (iv) a guarantee that decisions concerning a worker should not be based solely on the automated processing of that worker's personal data; and (v) a guarantee that the processing of personal data should not lead to any discrimination.
98. Furthermore, in platform work it is especially important to have *portability of data from one platform to another, so as to provide a curriculum vitae* that can facilitate mobility between platforms and transfer a worker's ranking from one platform to another. This portability is now one of the most commonly made recommendations on platform work¹²⁵ and is already recognized as a right of individuals by the General Data Protection Regulation (Article 20) and by the [Standards for Personal Data Protection for Ibero-American States](#) (Article 30).
99. But if one thing characterizes platform work, it is algorithmic management. It is an algorithm that offers and grants services or tasks to workers, defines their time slots, calculates the rankings on which their activities and income depend, and decides whether they will continue to provide services for the platform or remain deselected from it. However, little or nothing is known about the algorithm by the workers who are subject to its dictates because it is opaque and at times incomprehensible to them. Also, algorithmic decisions are not always neutral. The data that feed into algorithms can contain biases which ultimately introduce discrimination into the decisions taken by them.
100. This is not simply a possibility, there are already examples. In Italy, a judgment has declared that the algorithm used by a delivery platform causes discrimination among delivery drivers because it does not take into account the reasons why they might not perform services in a slot previously selected by them or cancel a slot 24 hours in advance, those reasons perhaps being that they are

¹²⁴ Frank Hendrickx, [Protection of Workers' Personal Data: General Principles](#), ILO Working Paper 62, 2022.

¹²⁵ Berg et al., [Digital labour platforms and the future of work](#).

exercising their right to strike or are ill.¹²⁶ In the Netherlands, a judgment confirmed the right of a transport platform to use an algorithm for taking decisions, but also its obligation to make transparent the data and main evaluation criteria fed into the algorithm so that workers can understand them and test their lawfulness.¹²⁷

- 101.** What many people regard as a key factor in relation to algorithmic decisions is the need to recognize their existence and their legitimacy in platforms' decision-making, and to submit the algorithms to a process of transparency and evaluation. Some national policies point in this direction. In Spain, Law No. 12/2021 of 28 September, referred to earlier, regulates the right of worker representatives to obtain information on "the parameters, rules and instructions at the basis of the algorithms ... which influence decision-making that can affect working conditions [and] access to and retention of employment" (one single article). *However, there is a regulatory vacuum within the ILO on this matter.*

6.4. Social protection for platform workers

- 102.** The first feature to emphasize is the different level of social protection for those who obtain platform work as their main source of income, compared with those who obtain additional income from platform work. Studies estimate that social protection for the former is less than that for the latter since these enjoy the social protection inherent in their main activity away from platforms.¹²⁸ That said, although the latter group are covered, the fact that they do not pay social contributions in relation to their platform activities raises issues of equality in society, sustainability of social protection schemes and fair competition among enterprises. Furthermore, as noted earlier (section 4.3), some workers, even though their work for platforms is their main occupation, are not registered, which raises issues similar to those of the group just mentioned. A second feature to highlight is that in situ platform workers have better social protection in developed countries than in developing ones, basically because the social protection institutions of the first group are normally more stable and the social protection provided to the self-employed is stronger.¹²⁹
- 103.** That said, all the estimates state that social protection is less for platform workers, whether online or in situ. Around 40 per cent of these workers have sickness cover (41 per cent at online platforms and 43 per cent at in situ platforms), which means that some 60 per cent have no cover against this risk. This deficiency was probably especially important during COVID-19, in that platform workers may have had difficulty in gaining access to health services and receiving sickness benefits. Additionally, less than 20 per cent of workers at both types of platforms have protection against industrial accidents and unemployment (especially low is the unemployment protection level – around 10 per cent – of those working for in situ platforms). This means that around 80 per cent of platform workers have no coverage against these risks and that the percentage of workers with unemployment protection is very low. Finally, the percentage of platform workers with protection for old age is not more than 23 per cent, which means that over three quarters of them have none.¹³⁰

¹²⁶ Judgment of the Ordinary Court of Bologna (Italy) [in Italian].

¹²⁷ Judgment of the District Court of Amsterdam (Netherlands).

¹²⁸ Berg et al., *Digital labour platforms and the future of work*.

¹²⁹ ILO, *World Employment and Social Outlook 2021*.

¹³⁰ ILO, *World Employment and Social Outlook 2021*, 174–176.

- 104.** With the aim of improving social protection for platform workers, various measures have either been implemented or envisaged in the literature. In simplified terms, and without ruling out that certain measures may be more complementary rather than alternatives, they can be summarized as follows. The first involves classifying platform workers as dependent when they actually are, so that the social protection levels for that category of worker become applicable to them.¹³¹ The second is to provide a minimum level of social security regardless of the workers' employment status, which would have to be funded mainly from general taxation. The third is exemplified in the reforms of France, India and the Republic of Korea discussed above (section 5.2), which consist in extending *ex lege* contributions and protection against certain contingencies, especially industrial accidents, to these workers. Other countries, such as Brazil, Cabo Verde and Algeria, have decided to enhance protection for the self-employed,¹³² and thus for those platform workers classified as such. The latest proposal is for platforms to pay *ex lege* the social contributions of all workers, whether dependent or self-employed.¹³³
- 105.** The validity of these proposals to extend social protection to platform workers should be looked at from various viewpoints. First, the protection provided must be adequate. When protection is uncoupled from employment, it generally provides a modest level of protection that does not enable workers to maintain their living standard or to mitigate fluctuations in income when they or their families have to deal with certain types of life risks. Second, the type of social protection associated with a type of work must not generate differences in labour costs that might create incentives to hire workers under cheaper working arrangements, thereby influencing competition among companies and driving people's working conditions downwards. Third, the type of social protection must not weaken the financial sustainability of social protection schemes over the medium and long term. Consideration must also be given to the difficulties in terms of efficiency and equity that a plethora of special regimes linked to different types of work might entail, at a time when the trend is to merge separate social protection schemes so as to improve the risk pooling in accordance with the principles of solidarity and universality.
- 106.** Providing social protection for platform workers forms part of the wider objective, emphasized in the ILO Centenary Declaration for the Future of Work, of providing "universal access to comprehensive and sustainable social protection" (Part III(A)(iii)) in line with international labour standards, in particular Recommendation No. 202 and Convention No. 102. In turn, the conclusions concerning the second recurrent discussion on social protection, adopted by the International Labour Conference at its 109th Session (June 2021), state, inter alia, that Members should "improve coverage of those not yet adequately protected, including by ensuring access to adequate social protection for workers in all types of employment" (paragraph 13(d)) and "secure the necessary legal certainty for workers and employers, ensuring the correct classification of employment relationships" (paragraph 13(j)). Finally, they state that the Office should "support Member States in providing access to adequate social protection for workers in all types of employment, including self-employment, and in ensuring the preservation and portability of acquired entitlements, in the light of new developments in the world of work" (paragraph 17(g)).

¹³¹ Chris Forde et al., *The Social Protection of Workers in the Platform Economy* (European Union, 2017).

¹³² ILO, "Extending Social Security to Self-Employed Workers", *Social Protection Spotlight ILO brief*, March 2021.

¹³³ María Luz Rodríguez Fernández, "Protección social para los trabajadores de la economía de plataforma: propuestas para aliviar su vulnerabilidad", *Revista General de Derecho del Trabajo y de la Seguridad Social* 57 (2020), 168–184.

► 7. Exercising the rights to freedom of association, to organize and to bargain collectively

7.1. How the ILO standards on freedom of association and collective bargaining apply to platform workers

- 107.** The ILO Declaration on Fundamental Principles and Rights at Work (1998), as amended in 2022, recognizes freedom of association and the effective recognition of the right to bargain collectively as one of the five categories of fundamental rights and principles that all Members are under obligation to “respect, promote and realize” by virtue of their membership of the Organization. *These rights are set out in Conventions Nos 87 and 98, both of which are applicable to platform workers regardless of their classification.*
- 108.** This was the understanding of the Committee of Experts on the Application of Conventions and Recommendations in its General Survey on the fundamental Conventions concerning rights at work, in 2012, which states that Convention No. 87 is applicable to “all workers and employers ... including ... dependent workers ... and self-employed workers” (paragraph 53). The same opinion is held by the Committee on Freedom of Association (CFA). In its 349th Report, referring to Case No. 2498 concerning the Government of Colombia, the CFA maintains that “the criterion for determining the persons covered by that right [to establish and join organizations of their own choosing] is not based on the existence of an employment relationship” (paragraph 735).
- 109.** This is also the view taken concerning Convention No. 98. In its 2012 General Survey on the fundamental Conventions concerning rights at work, the Committee of Experts understands that “recognition of the right to collective bargaining is general in scope and ... workers ... must benefit from it” (paragraph 209). This is reiterated in its 2020 General Survey, which states that “the full range of fundamental principles and rights at work [among them the right to collective bargaining] are applicable to platform workers ... irrespective of their employment status” (paragraph 327). The CFA has taken the same stance. In its 376th Report, in relation to Case No. 2786 concerning the Government of the Dominican Republic, the CFA requests the Government to “hold consultations ... to ensure that workers who are self-employed could fully enjoy trade union rights for the purpose of furthering and defending their interest, including by the means of collective bargaining, [and] identify the particularities of self-employed workers that have a bearing on collective bargaining so as to develop specific collective bargaining mechanisms relevant to self-employed workers” (paragraph 349).
- 110.** However, it cannot be ignored that there are those who question whether the right to collective bargaining for self-employed workers is compatible with free competition. For this reason, in some countries the classification of platform workers can still be relevant when it comes to exercising their right to collective bargaining, in the sense that it is clear when this is exercised by workers classified as dependent, but not so much when exercised by those classified as self-employed.¹³⁴ This has been the subject of debate in a number of regions and institutions,¹³⁵

¹³⁴ María Luz Rodríguez Fernández, “La negociación colectiva en las plataformas digitales”, in *La negociación colectiva como institución central del sistema de relaciones laborales*, 521–537 (Albacete: Bomarzo, 2021).

¹³⁵ In some countries collective bargaining by the self-employed is expressly recognized. This is the case in Spain, where [Law No. 20/2007 of 11 July 2007](#) [in Spanish] allows economically dependent self-employed persons to negotiate “professional agreements”, in France, where [Law No. 2022-139 of 7 February 2022](#) regulates collective bargaining by independent platform workers, and in [Australia](#), where negotiation is possible between independent contractors and their counterparts.

particularly the European Union and the OECD.¹³⁶ In both it is understood that self-employed people exist who lack the negotiating power to be able to influence their working conditions, either because they are in a situation comparable to that of dependent workers or because the companies for which they provide services exercise monopsony power. In these specific cases, a certain consensus exists that the negotiating power of self-employed workers, especially in the case of platform workers, is compatible with free competition.

7.2. Organizations and initiatives which defend the interests of platform workers and employers

- 111.** In this sphere too there is an important difference between in situ and online platform workers. While the organizations and initiatives defending the interests of the former are well known, there is hardly any evidence of organizations and initiatives which do likewise for the latter. They perform their work online, isolated and geographically dispersed, competing with each other to access the tasks offered by the platform, very often without knowing who their real employer is.¹³⁷ In these conditions, it is certainly difficult to set up organizations to defend their interests, and so alternative ways of organizing have emerged, such as social network forums and groups¹³⁸ like [Turkopticon](#), and alternative forms of action such as the ranking of platforms to alert workers to the working conditions they offer, for example [Fairwork](#).
- 112.** In the case of in situ platforms, setting up organizations is easier since the workers are present at a particular location and can get to know one another and share experiences and concerns. Some studies estimate that one third of these workers use social network groups to stay connected and that the majority feel that this connection helps to improve their working conditions.¹³⁹ What is more, a plethora of in situ platform workers' organizations has sprung up. As well as forums and groups on social networks, there are unions and associations specific to these workers, sometimes enjoying good relations with traditional unions and sometimes in competition with them. Occasionally it is the traditional unions that defend the interests of these "new" workers. Even specific organizations such as works councils have been set up for the same purpose. Something similar is happening on the platform side, with some of them forming their own associations to defend their business interests and others preferring to do so by joining existing employers' organizations.¹⁴⁰
- 113.** Examples exist of all the above. The Argentine [Association of Platform Staff](#) [in Spanish] is a union specifically for platform workers which has tense relations with the country's traditional unions. A different case is the [Cornershop Business Union](#) [in Spanish] in Chile, a union specifically for platform workers which enjoys good relations with the traditional unions. The same is true in Nigeria, where the [PEDPA drivers' union has affiliated to the Nigeria Trade Union Congress](#). The fact that the Italian unions CGIL, CISL and UIL have signed a collective agreement for workers at the JustEat platform is an example of traditional unions defending these workers. The Spanish [Autonomous Association of Riders](#) [in Spanish] is an example of the creation of specific

¹³⁶ OECD, *The Future of Work: Expert Meeting on Collective Bargaining for Own-Account Workers*, 2020.

¹³⁷ Vili Lehdonvirta, "Algorithms That Divide and Unite: Delocalisation, Identity, and Collective Action in 'Microwork'", in *Space, Place and Global Digital Work – Dynamics of Virtual Work book series*, 53–80 (London: Palgrave Macmillan, 2016).

¹³⁸ Rochelle LaPlante and Michael Six Silberman, "Building Trust in Crowd Worker Forums: Worker Ownership, Governance, and Work Outcomes" (2016).

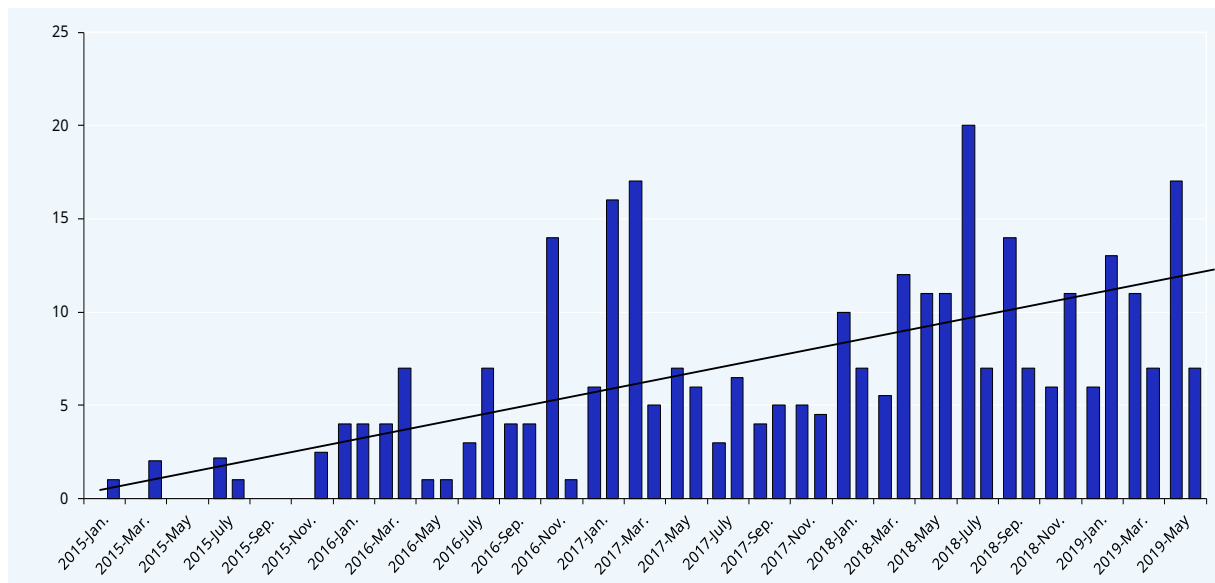
¹³⁹ ILO, *Realizing the Potential of the Platform and Gig Economy through Social Dialogue and Collective Bargaining*, 2022, forthcoming.

¹⁴⁰ Hannah Johnston and Chris Land-Kazlauskas, *Organizing On-Demand: Representation, Voice, and Collective Bargaining in the Gig Economy*, Conditions of Work and Employment Series No. 94 (ILO, 2019).

associations (not trade unions) by platform workers. Finally, in Austria, VIDA, the Union of Workers in Transport and Services, has set up a [works council](#) [in German] to represent workers at the Foodora platform.

- 114. The [German Crowdsourcing Union](#) [in German] is an example of platforms creating specific business organizations to defend their interests as “employers”. Again, the fact that [Uber has joined the ITAS](#) [in Spanish], a major association for technology companies in Slovakia, is an example of how platforms are integrating with the country’s business associations. By contrast, the [Glovo platform left the Spanish Confederation of Business Organizations](#) [in Spanish], the main employers’ organization in Spain, because it disagreed with its position in the social dialogue relating to the classification of platform workers.
- 115. Actions in defence of platform workers’ interests have begun to spring up. In this regard, there is a clear difference in strategy between the global North and South. Whereas in the South, the main forms of action have been demonstrations and strikes called by the new platform worker unions, in the North the main actions have involved the traditional unions seeking proper classification of these workers via the courts and collective bargaining. Either way, in both hemispheres there have been disputes. According to some estimates,¹⁴¹ these disputes increased between January 2017 and July 2020, with an almost equal split between the three most common types of action: strikes (30 per cent), demonstrations (27 per cent) and court claims (34 per cent).

► **Figure 7. Evolution of disputes involving platform workers**



Source: Simon Joyce et al.

7.3. Collective agreements for platform workers and employers

- 116. Examples also exist of collective agreements for platform workers and employers. They all involve in situ platform workers; there is no evidence of any such agreements with online workers. They all refer to dependent workers, with no evidence of any collective agreements applicable to self-employed workers. This was tried in Denmark, where the 2018 [collective agreement between Hilfr Aps and the 3F trade union](#) initially covered self-employed platform workers, and in Italy, where the business association [AssoDelivery and the UGL union signed a collective agreement in 2020](#)

¹⁴¹ Simon Joyce et al., “A Global Struggle: Worker Protest in the Platform Economy”, *ETUI Policy Brief* No. 2 (2020).

[in Italian] for self-employed platform workers. However, both attempts proved unsuccessful, the first having been declared contrary to free competition ¹⁴² and the second on the grounds that the signatory union lacked representativeness. ¹⁴³

117. Regarding the content of these collective agreements, the first aspect to emphasize is their experimental character. The agreement signed between Hilfr Aps and the Danish 3F union includes a “joint declaration” which explicitly recognizes as much and emphasizes that the agreement is “an attempt to build a bridge between the digital platforms and the Danish labour market model”. The same occurs with the [collective agreement signed in Italy between CGIL, CISL and UIL and JustEat in 2021](#) [in Italian]. This too is intended as an “experimental” collective agreement that will be subjected to reassessment prior to renewal (article 24) and whose aim is to “define an innovative model for regulating the subordinate employment of riders ... which facilitates the integration of this category of workers into an organizational and regulatory framework of subordination” (preamble).
118. Working time is another feature which stands out in all platform collective agreements. This is the case in the agreement just mentioned, where part-time work is stated as being “the standard mode of work at the enterprise” and the number and distribution of weekly working hours are laid down (article 5). Also, the [collective agreement signed in Austria in 2020 between the VIDA trade union and the Professional Association for the Freight Transport Sector](#) [in German], for platform delivery workers, focuses on regulating the number of weekly hours, their distribution and the breaks to be taken between working days (article VI). In addition, it includes a determination of a minimum hourly, weekly and monthly wage and something that is equally essential with platforms, namely financial compensation for personal possessions that a worker makes available in performing the work, in this case a bicycle and a mobile phone (article XVIII). This can also be seen in the collective agreement signed in Chile, in 2018, between the Cornershop Business Union and Delivery Technologies SpA, which regulates the working conditions of the so-called “shoppers” and obliges the platform to pay these persons “an allowance intended to cover the cost of a data plan [for use in] their smartphones when used as a work tool” (article 19).
119. There is no mention in any of the above-mentioned collective agreements that consideration should be given to the downtime that workers spend waiting to receive a service or task which will provide them with remuneration. However, the [collective agreement signed for 2021–23 between the Danish 3F union and the Danish Chamber of Commerce](#) does make such provision. It sets out when working time begins and ends and when, even though a worker may be logged into the app, their time will not be remunerated: “the start and finish of working time shall occur when workers turn on and turn off [the app] respectively [but] the time when a worker is not available to perform tasks shall not be remunerated” (article 3.1).
120. The regulation of algorithmic decisions taken by a platform is the most innovative aspect of the [collective agreement signed between JustEat and the CCOO and UGT unions in Spain, in December 2021](#). This regulates: (i) “a duty to inform worker representatives both of the parameters and data, and the regulations and instructions, on which the algorithms and/or artificial intelligence systems are based”; and (ii) a corporate responsibility to ensure that “the algorithms ... used are subject to a measure of human supervision” (article 68).
121. Finally, data protection occupies an important place in the two Danish collective agreements. The one signed between Hilfr ApS and 3F allows a worker to request at any time that derogatory, false and offensive comments be deleted from his or her profile, along with any unfavourable

¹⁴² Resolution of the DCCA (Danish Competition and Consumer Authority).

¹⁴³ Judgment of the Ordinary Court of Bologna (Italy) [in Italian].

assessments received (protocol 1). However, the collective agreement signed between 3F and the Danish Chamber of Commerce authorizes the “gathering, storage, processing and dissemination of workers’ data” by platforms (annex 26), and of data from their GPS “in order to prove that a vehicle [which the delivery driver may be using] is being used solely in the service of the employer” (annex 32).

► 8. Conclusions

- 122.** In view of the above, it may be concluded that the platform economy is an important source for creating economic activity and employment, but its development also presents a challenge to employers, workers and governments. Employers can suffer from unfair competition. Workers may not obtain conditions of employment and social protection that are consistent with decent work standards. Governments may find their ability to regulate the labour market being challenged and may suffer fiscal imbalances.
- 123.** It has been shown how certain platform behaviours can damage fair competition among enterprises. These behaviours include certain decisions taken with regard to worker classification and the reduced cost-bearing with respect to competitors that this can occasionally entail. Thought should be devoted to whether clarification regarding the classification of platform workers would prevent these situations.
- 124.** It has also been shown that differences exist between the respective situations of online and in situ platform workers. These include the fact that the initiatives to regulate platform work and the existing collective agreements concern only in situ platform workers. This would suggest that online platform workers today have fewer instruments to protect them and that the cross-border nature of the tasks they normally perform makes it difficult for them to be protected under national regulations. Consideration might therefore be given to whether this objective could be resolved through international intervention.
- 125.** We have identified the ILO Conventions and Recommendations that could be applicable to platform work, but also certain legal vacuums. These include the lack of a guaranteed right to minimum working hours and predictable working hours; the inexistence of mechanisms for improving platform transparency with respect to workers and dispute resolution; and the absence of legislation relating to the portability of workers’ data between platforms, and the transparent and responsible use of algorithms. Here, consideration might be given to whether these matters should be addressed at international level, and, if so, by what means.
- 126.** Finally, it has been shown that platform work can be a source of informal labour and the trigger for non-payment of taxes and social contributions, and that this can lead to fiscal imbalances for governments. However, proposals have been identified that could be conducive to the formalization of platform work and more equitable sharing of social risks. Thought needs to be devoted to how these proposals might enhance the strengths of the platform economy and further establish it as a source of employment creation.