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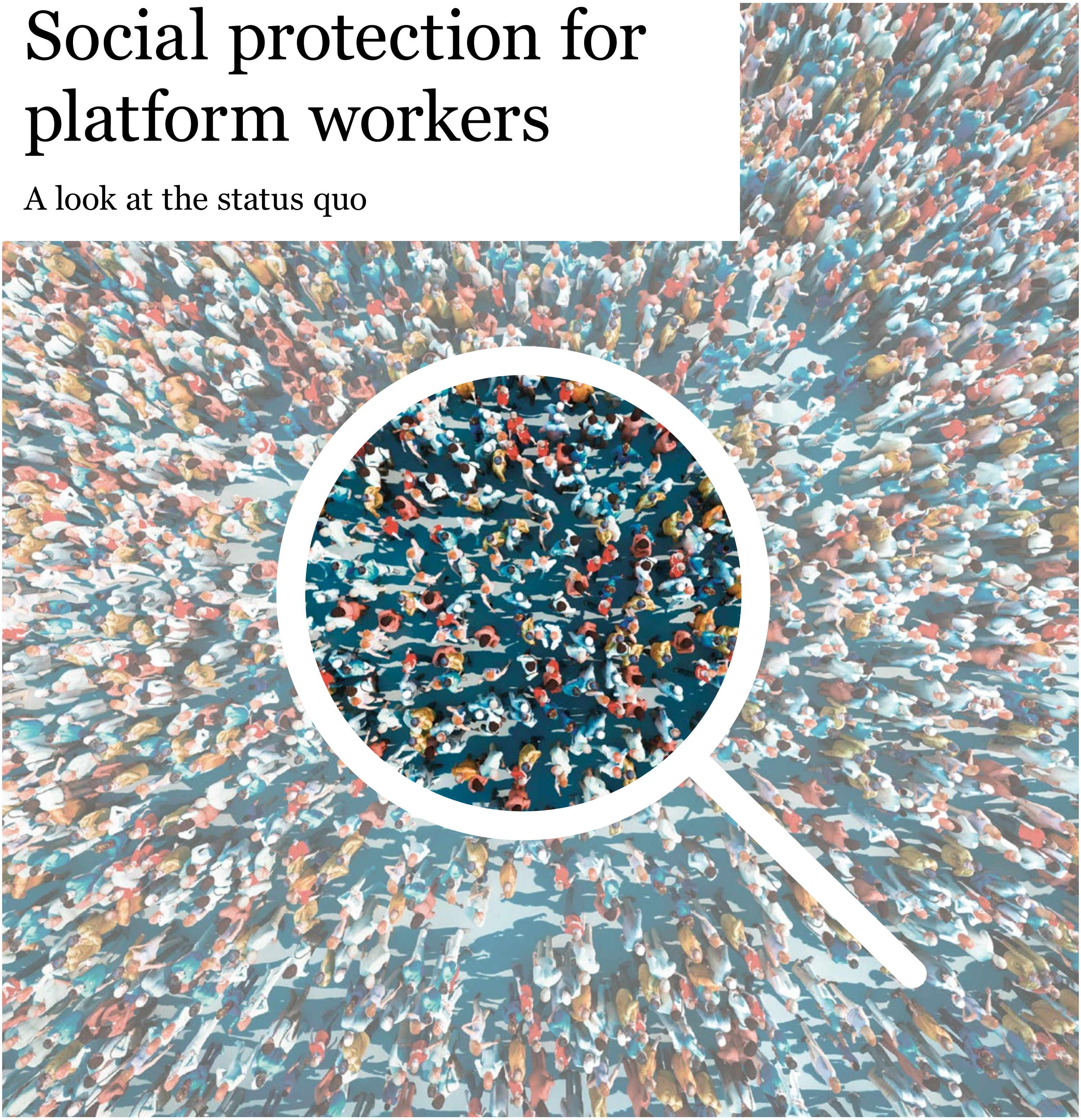
Social protection for platform workers

A look at the status quo



Dear Reader,

The transformation of the world of work through digitalisation is making new forms of cooperation possible. This isn't an entirely new phenomenon. Organising temporary work via interme diaries and communicating electronically to perform work have long been a part of the world of work.

But the technology hasn't stopped there. It's no longer just about working remotely. New online platforms enable economically active people to work flexibly in terms of location and time.

Platform work's increasing importance for the labour market means there needs to be answers regarding social security. Is it perhaps enough to adapt current employment and social protection systems? Or do we have to completely rethink labour market institutions and social security systems? The need to have European and international rules and their importance is also increasing because of platform work's cross-border nature.

Whether other countries have already found solutions for the issue of social security for platform workers is the focus of a recent study by the European Social Insurance Platform (ESIP). The study used certain model cases to investigate the social protection of platform workers in various statutory social insurance systems of selected EU member states and Switzerland.

Suffice it to say: European countries provide a somewhat 'colourful' picture when it comes to the social protection of new types of work. What you see when you think outside the box is often just the next box, with all its historical peculiarities and gaps, especially when it comes to protecting the self-employed. But there are also some pioneering approaches.

We hope you enjoy reading this month's edition of ed*!

Ilka Wölfle

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New forms of work – approaches to social security

European Social Insurance Platform investigated the social protection of platform workers.

EU Competition Commissioner Magrethe Vestager announced in October 2018 that '2% of the adult population now earns more than half of their income through one or more platforms.' Platform work also plays an increasingly important role in Germany. Approximately 3.4% of people over the age of 18 earn their income via online work platforms, at least part-time; a third of these people work at least 30 hours per week. These can be jobs as diverse as passenger transport (Uber), food delivery (Foodora, Deliveroo), or purely online work that does not have to be done locally (AmazonMTurk, Upwork), just to name a few examples.

The debate on the future of work and social protection has been going on for a while at European level. This was highlighted in a recent speech by EU Commissioner for Employment and Social Affairs, Marianne Thyssen, who emphasised that 'our social security systems are built on labour markets that no longer exist'.

Whether this is actually true is the focus of a study by the European Social Insurance Platform (ESIP). ESIP is one of the European umbrella organisations for statutory social security systems of the Member States. Included among its members are the umbrella associations of Germany's social security system. The study was conducted in 2017 and 2018 for selected countries.

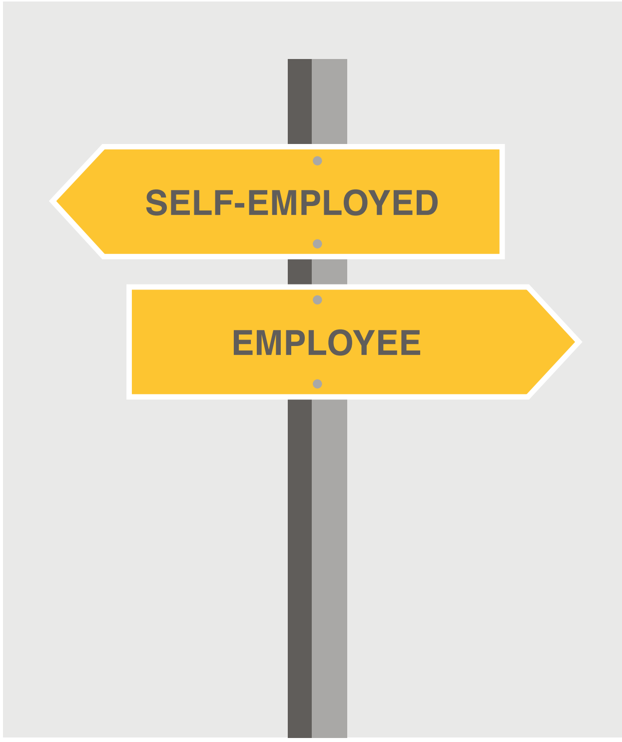
The sample cases selected in the study had one thing in common: The provider of services works in parallel or in quick succession for multiple clients, the 'users' of the platform. These can be private persons, but also businesses.

The platform worker in Europe – self-employed or employed?

The first issue looked at was the status of platform workers. Are they employees, self-employed or some kind of third category? The answer provides an initial insight into potential gaps in social protection. This is particularly the case in countries where access to social protection and social secu-

Wonderful world – food delivered to your door

Self-employed or employee – the first sign of possible gaps in social protection.



rity contributions depends on the status of the platform worker as 'employee' or 'self-employed person'.

It comes as no big surprise that, in almost all countries, the various groups of platform workers studied are legally regarded as 'self-employed'. However, in some cases the workers themselves have a say on agreeing their contractual status, regardless of the nature of the work (for example, in Belgium or Poland). This becomes very clear when it comes to the classification of delivery services. In many countries, the classification depends on the business model of the respective platform. Foodora and Lieferando offer employment contracts, whereas Deliveroo seems to work exclusively with self-employed people.

But there are other exceptions. In Hungary, both virtual, online platform workers and the suppliers of delivery services are considered to be dependent employees, but not Uber drivers. In Switzerland, it is the other way around: There, the social security system considers Uber drivers to be employees, although this is currently being disputed in the courts. France considers Uber drivers to be self-employed in terms of employment law, but under social law as dependent employees. In any case, France is already very close to a proposal for a professional group, which is increasingly found in academic discussions: the legal creation of a third status, a third category (or several), which is somewhere between 'dependent employee' and 'self-employed'. A common element of all these deliberations is the intention to give the persons concerned access to at least part of the usual rights that employees have or give them a part of the protection afforded by social security systems.

Platform workers in Europe – do they have social protection?

After clarifying the legal status of platform workers, it is usually possible to work out what this means for the worker in terms of social protection and contributions to be paid, unless there are special rules.

Once platform workers have been classified as self-employed, a colourful picture emerges in the European comparison. Noticeably, accident and unemployment insurance are often not part of the package.

Different degrees of protection – according to groups of countries

The countries with the most comprehensive coverage (sickness, pension and accident insurance, as well as compensation in the form of sickness and disability benefits) include Austria, Sweden and Poland, possibly also Hungary.

In other countries, health and pension insurance is mandatory, but not accident insurance. This is the case in Estonia, France, Switzerland, Slovakia and the Netherlands.

And finally, there are countries, noticeably Germany, where the social security of the self-employed is best described as a 'patchwork quilt'. But even in the Netherlands, social security of the self-employed is patchy. Although they have obligatory protection as 'insured citizens' for the first statutory pillar of pension insurance, they are not protected by the second pillar, which is actually 'quasi-mandatory', but only for dependent employees. Most significantly, self-employed workers are not covered by the statutory social security systems which protect against the risk of disability and sickness-related loss of income (sickness benefits).

Different degrees of protection – according to types of insurance

Although pension insurance for the self-employed is by no means all encompassing across Europe, it is by and large obligatory.

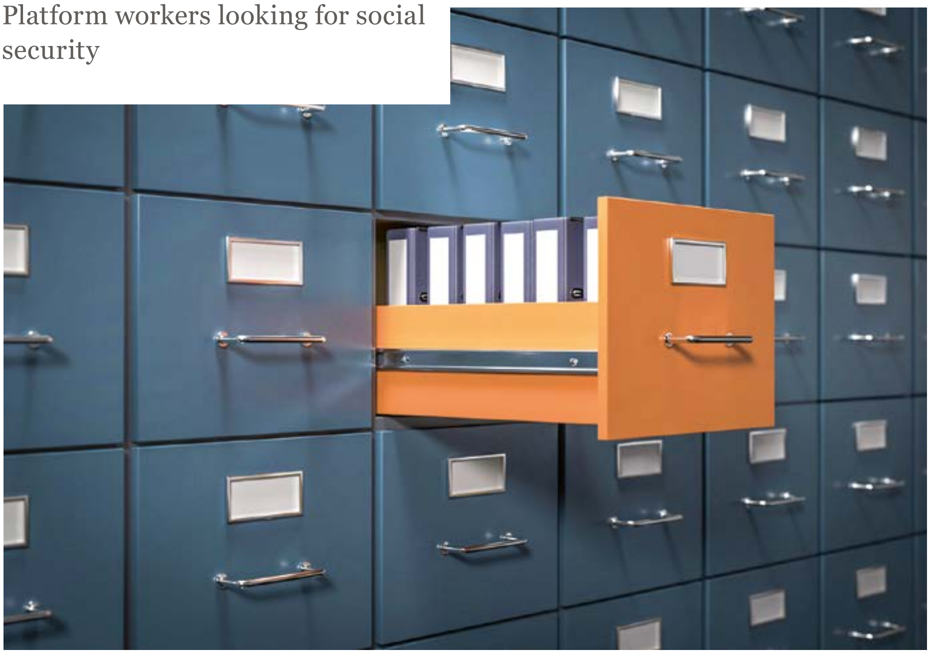
The same cannot be said for statutory accident insurance. In countries where it does not exist, such as Estonia, employer liability comes into play again. However, this does not help a self-employed person. Even countries that have this branch of insurance struggle to include the self-employed. Among the countries surveyed, Sweden and Poland have come the furthest, with both dependent employees and self-employed workers covered by accident insurance.

Accident insurance and unemployment insurance are often not covered.

Different standards in Europe

Accident insurance in Germany: a good practice example for vulnerable platform work.

Platform workers looking for social security



At the other end of the scale are countries such as France, Slovakia, the Netherlands and Switzerland, where the self-employed are not compulsorily insured and do not even have voluntary access. However, it should be noted that in Switzerland, for example, Uber drivers are considered to be employees under social insurance law and are therefore compulsorily insured under statutory accident insurance. In France, on the other hand, Uber drivers do not have compulsory insurance but licensed taxi drivers who are self-employed are covered by compulsory insurance.

In between the two extremes are countries where, generally speaking, there is no compulsory insurance for the self-employed, but which allow voluntary access. These countries include Germany and Finland. Germany has a unique situation in that each of the accident insurance institutions can decide by statute which groups of self-employed persons they include in compulsory insurance. The German Social Accident Insurance Institution for the Transport Industry has made use of this possibility and included both 'goods transport' and 'passenger transport' in compulsory insurance. Thus, persons who work as Uber or Deliveroo drivers are also protected.

Legal or factual options

In some countries, in spite of theoretical compulsory insurance of self-employed persons, there is a de facto, or sometimes even legal, possibility of opting out. In Finland, it is compulsory for the self-employed to take out insurance in the statutory health and pension insurance schemes. However, this only applies if they carried out an activity as a self-employed person for more than four consecutive months in the previous year, a condition which is unlikely to be met by platform workers and which, in practice, often goes hand in hand with income not being registered in the social security system. Together with very high entry thresholds, this means that a large proportion of the self-employed are not protected against loss of income (due to old age, illness, unemployment).

The opt-out in Estonia has more legal certainty. Although self-employed persons are obliged to take out comprehensive insurance in the statutory system and pay a 'social tax' of 33 %, this is not necessary if a person only occasionally earns an income through self-employment. There is no legal definition for this; self-employed workers can decide for themselves if they belong to this category. This choice is particularly interesting for platform workers. In addition, the person concerned may choose to register themselves as an 'entrepreneur', that is, to found their own company. In this situation, self-employed persons can hire themselves (they then pay the 33 % social tax as well as contributions to statutory unemployment insurance) or they can decide against this and then they only have to pay income tax on their earnings (dividends).

Poland is also worth mentioning here. Although health, pension and accident insurance are mandatory for self-employed persons, they have the option – unlike dependent employees – to make a flatrate contribution of € 200 per month instead of income-related contributions. This option is taken up by nearly all self-employed persons. This naturally has an effect on their entitlements, for example, how much pension they receive after they retire.

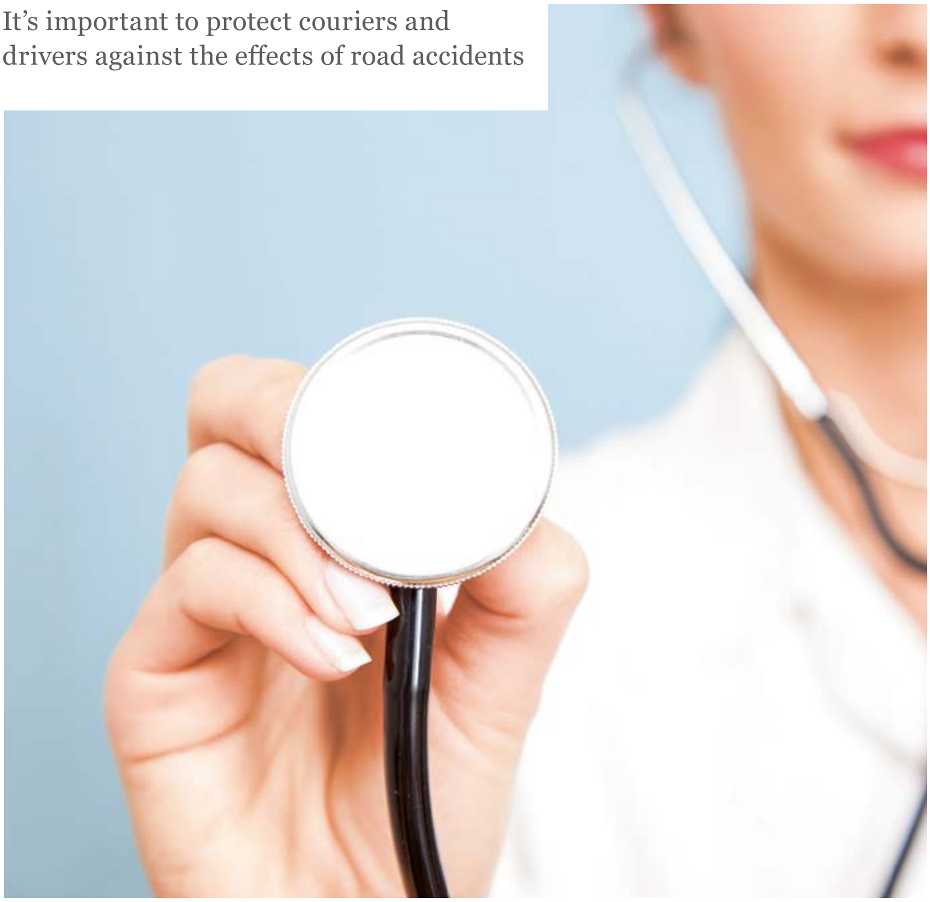
Special rules for platform work

Recently, new sub-categories of self-employment have been created specifically for platform work, which in some cases have significant consequences for social protection. In Belgium, under certain conditions, platform workers – but not other self-employed workers – have to pass a considerable minimum threshold before they become insured.

In France, platform workers must take out compulsory insurance in specific branches of social security, for example, statutory pension schemes. This even applies, under certain circumstances, to renting out private homes as temporary holiday accommodation via a platform such as Airbnb. The providers of this accommodation, and only they and not other platform workers or

Do self-employed platform workers have social security? In principle, yes, but …

It's important to protect couriers and drivers against the effects of road accidents



Sub-categories of ‘self-employment’ make it like comparing apples and pears.

Sometimes one piggy bank gets filled up while the other one remains empty

self-employed persons, may choose between the status as self-employed person or employee for the purposes of social security. Special rules for platform workers also apply to accident insurance. Like all other self-employed persons, they do not have access to statutory accident insurance, not even on a voluntary basis. They can, however, take out private accident insurance. In this case, the platform operator must bear the costs of the insurance if certain conditions are met. This is the case when the platform determines the terms and price of services, such as Uber or Deliveroo.

Minimum income thresholds

As is the case for employed persons, there are also low-income thresholds for self-employed persons in most countries, below which there is no compulsory insurance. These thresholds vary depending on the employment status and on the type of insurance. Excessively high thresholds, applied over a long period of time and for different forms of employment without accumulation of income, leave dangerous gaps in a person’s (social) security profile. This is even more the case when several ‘side jobs’ are done simultaneously. Member States deal with these challenges in very different ways. Depending on the sector, the threshold can be up to € 1370, which is the case in France for cash benefits for long-term care, but in many cases there are no thresholds at all (contributions and benefits from the first euro earned). The situation in Belgium deserves a closer look, where there is a threshold of € 425 for work via registered platforms. Only specific platforms can be registered in Belgium. These are platforms that facilitate peer-to-peer relationships between equals, that is, cases where the end-user is a private individual. In this context, Deliveroo has registered itself, but not Uber.

Not everyone has a choice

Payment and transfer of contributions: looking for 'partners'

As self-employed persons, platform workers have to pay their own contributions in full and also manage them – with all problems that accompany this.

Attempts to attract other partners in the relevant business have been basic at best. One exception is the German Artists' Social Security Fund (KSK). Nevertheless, self-employed platform workers bear the full costs of social security contributions themselves. The only remaining question is whether they meet all reporting and contribution obligations themselves, or whether the digital contract process is not a far more efficient way of taking deductions 'at the source'. This would kill two birds with one stone: it simplifies the administrative burden on the provider of the service, who usually operates as a one-person business, and prevents contributions from being accidentally or deliberately not paid in full.

> Deducting social security contributions from the self-employed – sensible, but the exception.

There are some examples of payments being shifted to an upstream source. In France, if platform workers meet the conditions of a micro-entrepreneur, they can request the platform to deduct and make contributions on their behalf. In Switzerland, some platforms also take on this responsibility.

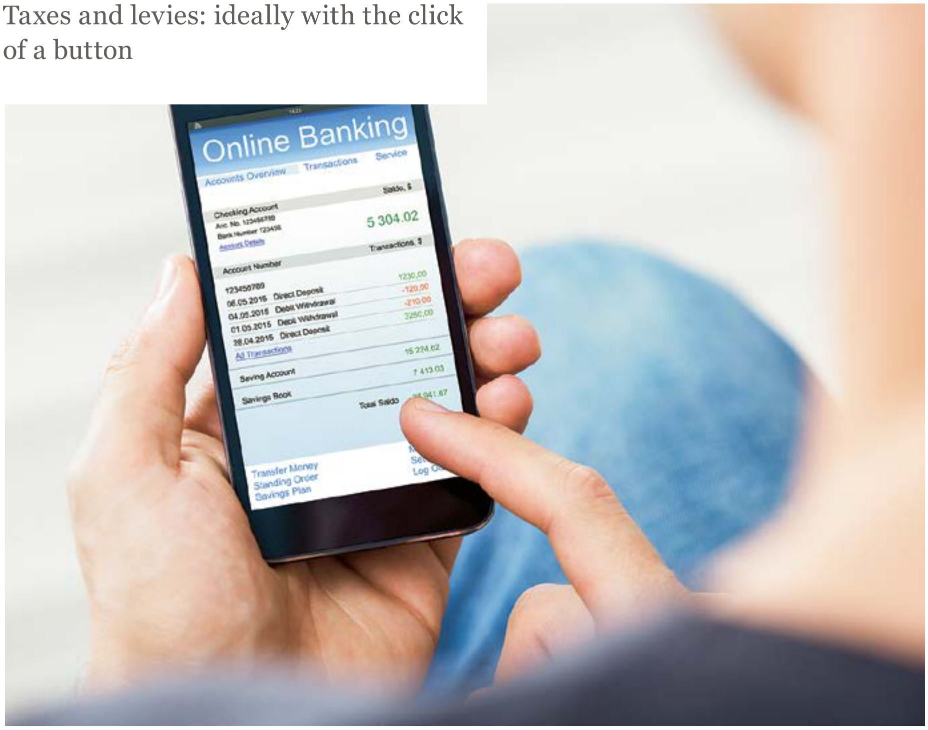
Estonia has been trying to find a different solution for platform workers, namely via the banks. However, since the banks are not cooperating, it remains only an 'idea'.

The monitoring of contributions is also critical. Essentially, the social security institutions must rely on self-employed platform workers knowing that they have to make a contribution and that they are honest about it. However, there have been some attempts to find a remedy for these issues involving platform work.

Belgium and Estonia allow platforms to forward information about the income of platform workers to the tax authorities. In Belgium, only registered platforms are obliged to do this. Data transfer in Estonia is limited to access by the tax authorities; Belgium takes it a step further. The tax authority forwards the income data to the social security authorities. In both countries, the procedure is voluntary. However, even from the platform worker's point of view, there are compelling reasons to work via platforms that engage in such an activity, as is the case for Uber in Estonia or Deliveroo in Belgium (but not Uber). In Estonia, the tax authority pre-fills the annual tax return, thus saving the taxpayer concerned a lot of work. In Belgium, the incentives are even greater. If the provider of a service works via a registered platform, they receive a tax-free income allowance; only when this is exceeded,

The future lies with cooperation between tax and social security administrations.

Taxes and levies: ideally with the click of a button



do they have to pay social security contributions (minimum income threshold).

The tax authorities in Slovakia also automatically transfer individual income data from self-employed persons to the social security authorities when the relevant threshold is exceeded. However, there does not seem to be any mechanisms in place which allow tax authorities to determine the source of cash flows (platform, bank transfers).

In October 2018, it became law in France for all electronic platforms to automatically provide the tax office with full information pertaining to all relevant financial transaction data and identifying data of all parties, including the provider of the service (the platform worker). The tax office then passes on this data to France's social security system (ACOSS).

Cross-border cooperation in monitoring contributions, also with non-EU states?

Several participants in the study agreed that attempts to obtain revenue data from platform operators about the transactions they have brokered are now doomed to failure if the operator is based in a non-EU European country or even outside Europe.

Coordinated steps at European level to overcome this bottleneck are still pending. So far, there has only been a vague idea to use the European Platform tackling undeclared work, within the proposed European Labour Authority, as a knowledge centre for undeclared work done via platforms. The proposal of labour market expert Enzo Weber to establish a Digital Social Security Account under the umbrella of an international organisation also needs to be developed further. Under his proposal, platform operators would have to transfer a certain proportion of turnover generated by platform workers. A potential starting point would be to work at OECD level to promote the international exchange of tax-relevant data in the digital labour market. The next step could be to think about making these new structures useful for social security purposes.

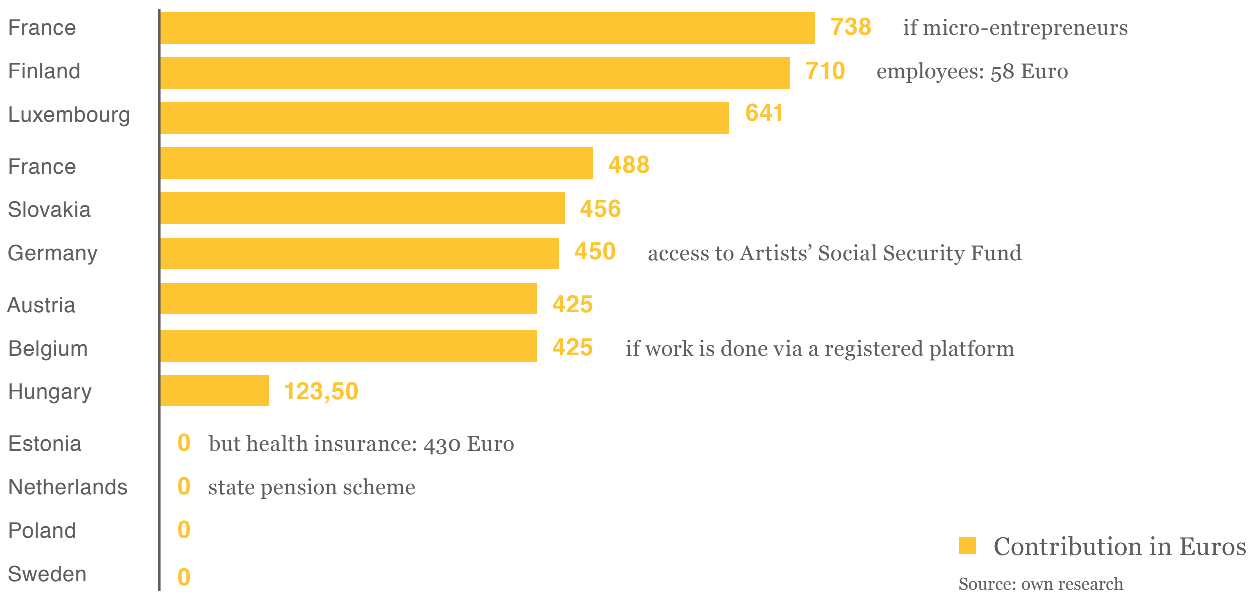
Is there a need for action?

It is true that responses from policy makers to the phenomenon of platform work have been rather unsystematic and experimental. As the ESIP study has shown, there are only a few isolated cases where fresh approaches have been put in place to deal with rules specifically tailored to platform work and social security. These range from including platform workers in the social security systems (special rules specifically for platform work), continue with special minimum income thresholds (e.g. Belgium), a special basis of assessment and contribution rate (France), and new forms of monitoring and paying contributions, and go all the way through to automatically reporting income data (Belgium, Estonia, France), albeit on a mainly voluntary basis. Whether these approaches are worthwhile is yet to be seen. Nevertheless, they are a step in the right direction in terms of collecting and monitoring contributions.

There is also some doubt whether completely new legal approaches to the phenomenon of platform work and social security really are needed.

Especially problematic: cooperation with platform operators outside of Europe.

Minimum income thresholds for compulsory pension insurance of the self-employed – examples



Source: own research

Often it is enough just to be consistent with implementing rules for self-employed workers, as long as these rules exist. Germany is not the only country where action needs to be taken with regard to the social protection of self-employed workers.

However, the ESIP study makes it clear that the existing systems have proven to be adaptable, either by applying existing rules to platform workers or through customised solutions. Gaps in access to social protection, which European institutions have rightly highlighted as a problem, are often not the result of new forms of work but rather due to the phenomenon of marginal or low-paid employment. Issues related to platform work are more likely to be issues related to tracking undeclared income. It remains to be seen whether European solutions will help here or whether international efforts are needed instead.

The study is not published yet but can be requested if there is any interest.

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