



Mutual Learning Programme

DG Employment, Social Affairs and Inclusion

Peer Country Comments Paper - Latvia

The collaborative economy: a difficult path to navigate when seeking to simultaneously appease digital innovation and protect workers, without upsetting either

**Peer Review on "Platform Work"
Germany, 12-14 October 2020**

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September 2020*



EUROPEAN COMMISSION

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1 Introduction

This paper has been prepared for the Peer Review on "Platform Work" within the framework of the Mutual Learning Programme. It provides a comparative assessment of the policy example of the host country and the situation in Latvia. For information on the host country policy example, please refer to the Host Country Discussion Paper.

2 Situation in the peer country

2.1 Definition

Platform work, as a stand-alone concept, is not a term that is actively circulating in Latvian public policy discourse. Instead, platform work, gig work, sharing economy and other similar new forms of employment and modes of production are aggregated under the term 'collaborative economy' (*sadarbības ekonomika*). Broadly following Cusomano (2015) and Hall and Pennington (2016), the collaborative economy is meant to encapsulate emerging, digital and digitised, business models and economic systems that unlock new value in financial, material, or barter exchanges, and enable more sustainable, flexible and just-in-time approaches to resource allocation (Ministru kabineta rīkojums Nr. 209). It is seen as a way for more people to enter the workforce, especially those in vulnerable groups, unable to work traditional jobs or hours, or at risk of discrimination, as well as an opportunity to reduce differences in regional labour markets. However, the collaborative economy is also recognised as a potential risk to health and safety standards and the quality of work, as well as potentially exacerbating the high skill/high wage – low skill/low wage divide on the labour market (Ibid.).

While the semantic implications of this definition are potentially intriguing and mirror recent work of revisionist management historians on foundational paradigms of administrative science (e.g. cooperative advantage vs competitive advantage – Prieto and Phipps, 2016, 2019), the Latvian definition of collaborative economy is closely related to mainstream definitions of the platform economy – a three-way arrangement between producers, consumers, and a digital intermediary that facilitates their exchanges. Notably, following Wirtz et al. (2019), mentions of environmental sustainability appear to have entered the discourse around understandings of what collaborative economy is meant to be, even if this is yet to directly translate into legislation.

Although exact definition of platform work remains elusive, Latvian legislation (same as German) does consider economic dependency when determining the nature of an employment relationship. As is the case in Germany, the burden of proof in ambiguous or disputed situations does fall on the employee and not on the platform or an employer.

2.2 Data

Just as elsewhere in the EU, platform workers in Latvia make up only a small, albeit difficult to precisely quantify, fraction of the total workforce. Platform work, as a form of employment, is not at all widespread either, primarily affecting transportation, finance and food delivery industries (European Commission, 2018).

Data on platform work and platform workers is scarce and ambiguous. This is primarily due to a lack of a clear definition of who the platform workers are – the usual ambiguity about whether platform workers are employees or self-employed makes it difficult to discern metrics about platform work from general statistics. In addition to this, Latvia is, potentially, facing further challenges in recording accurate data about platform work because of relatively high levels of shadow economy (e.g. not declaring 'supplementary income' derived from platform work) which are estimated at 23.9% of GDP (Sauka and Putnins, 2019). That being said, some metrics do exist. For example, a recent survey of new forms of work suggested that 32% of individuals engaged in ICT-enabled work (which is the category of that survey most related to platform work) are skilled professionals (17% of whom are experienced professionals), whereas 31% are manual

workers (VID, 2019). The Eurobarometer 438 (2018) ranks Latvia in the Top 3 among EU-28 (Latvia – 40%, Malta – 35%, Ireland – 34%) for utilisation of the sharing economy which, while not necessarily the same kind of economic and industrial relations phenomenon as platform work, is generally a closely related one. Similarly, a European Commission (2018) survey of the collaborative economy by sector, highlighted Latvia as one of the leading Member States for the size of its collaborative economy, accounting for 0.63% of GDP and 0.33% of the total workforce. These results were also corroborated by a ETUI (2019) survey conducted in Bulgaria, Hungary, Latvia, Poland and Slovakia, which found that between 1.9% and 7.8% of respondents had tried platform work but only 0.4% to 3% engaged in it on a monthly basis or more frequently.

A recent government-commissioned survey, although not providing representative numbers (and working with somewhat different definitions of the platform economy), suggests that platform work is the most popular form of primary employment in the collaborative economy among workers in the 20-24 age group (52%), albeit that number still stands at only 16% of the total workforce in that demographic category (VDI, 2019). This is followed by new parents (48%) and people who live far from main centres of economic activity (38%). The survey also highlights the very limited extent to which this new form of employment has penetrated the Latvian labour market.

Fundamentally, exact numbers of platform workers are unclear and reliable sources of data are limited. This, together with the fact that employment data is aggregated from macro-level statistics makes this source of information unreliable and non-generalisable for as long as definitional ambiguities as to the legal status of platform workers remain.

In terms of platform companies, the most recent data (Eurobarometer 438, 2016) indicates that there are 11 platforms operating in Latvia, across the transportation, hospitality and finance sectors.

3 National policies and measures

Latvia has been cautiously excited about the growth and innovation potential of platform work and has largely adopted a 'wait-and-see' approach in terms of policy and regulation. As mentioned above, this is mainly due to the existing uncertainty over the legal employment status of platform workers. However, there are three important characteristics of platform companies that are worth noting but also usually overlooked in the policy and regulation context:

1. Due to network effects that permeate two-sided markets, platforms will always strive to develop towards monopolistic business models (Eisenmann et al., 2006).
2. Platforms regulate connections between members of their ecosystems by means of proprietary algorithms and by providing highly asymmetric information to both producers and consumers (Iansiti and Levien, 2004; Gorwa, 2019).
3. The main commercial asset of platform firms, and hence their *raison d'être*, is the vast amount of transactional and behavioural data that they collect from the interactions of their members (van Doorn and Badger, 2020).

The combination of these three characteristics, compounded by legal ambiguity of what the employment status of platform workers actually is, makes it very difficult to derive effective top-down regulatory mechanisms, such as legislation. Most platform workers in the transportation sector (who engage in local platform work) will be registered as 'micro-enterprises', while food couriers will operate as self-employed. In Latvia, 'micro-enterprise' is a special, reduced taxation rate (9% instead of 21%) for firms with an annual turnover of EUR 100,000 or less and fewer than five employees. According to this law (*Mikrouzņēmumu nodokļa likums*), employees of micro-enterprise should be socially insured in such a way that within three years of employment, the amount of their mandatory state social security contributions will equal the amount of employers mandatory social security contributions. Thus, taxi drivers who operate as micro-

enterprises will benefit from the social security safety net, while food couriers, who do not operate as micro-enterprises, will not. This is not the case for those engaged in freelance work on online platforms as they will often work with a platform that is registered abroad and thus will not be subject to domestic regulation.

In addition to the peculiarities of the mechanics that underlie platform companies, a major policy focus for Latvia in recent years has been the continued reduction in the levels of shadow economy relative to GDP. This has been the government's number one priority for more than five years, and a number of framework documents have been developed to achieve this. Among these, the Inter-institutional Work Plan for Reducing the Shadow Economy for 2016-2020 (*Pasākumu plāns ēnu ekonomikas apkarošanai un godīgas konkurences veicināšanai*) is the key document. Most measures focus on better detection and tighter regulation, but tax reform is also seen as a key strategic objective.

Possibly due to very limited uptake of platform work, the Latvian government has been reluctant to rush into legislating the way platforms operate without consulting the main actors first. Indeed, the only two platform-specific legislations passed to date are an amendment to an existing law on transportation by road and an amendment to the tourism law, both aimed at including services provided through platforms into the existing legal frameworks so as to maintain existing competitive environments in those sectors.

3.1 Enacted laws

No new laws to account for platform work have been enacted in Latvia, and the state legislature has generally focused on amending existing legal frameworks to account for platform work in order to maintain the competitive status quo in affected sectors. The 2018 amendment to the transportation law (*Autopārvadājumu likums*) was passed with an explicit aim to enable ride-sharing platforms to enter the Latvian transportation market. This amendment restricted ride-sharing services to cars with up to four passenger seats and stipulated that such services can be offered, requested and approved only through the use of a mobile app that has to calculate the fare up front, display it to the client and process the electronic transaction if accepted (cash transactions are not permitted under this amendment). Goods or freight transport are not allowed by non-commercial entities.

Under the existing transportation law, ride-sharing is defined as an explicitly commercial activity (i.e. activity with intent to gain profit) which precludes the use of ride-sharing as a form of sharing economy in Latvia. A recent 'Conceptual Note on the Sharing Economy' by the Cabinet of Ministers (2019) justifies this by highlighting that commercially motivated ride-sharing is in practice virtually indistinguishable from non-commercially motivated ride-sharing, and so the standing priorities are to safeguard passengers and reduce opportunities for shadow economic activity (Ministru kabineta rīkojums Nr. 209). The latter aspect is especially important as the share of shadow economic activity in the transportation sector is very high (up to 80% – Žukauskas, 2018).

In 2019, an amendment to the Tourism Law (*Tūrisma likums*) was passed in response to issues raised by industry representatives about short-term house rental platforms. The aim of the amendment was to integrate short-term house rental platforms into existing legal framework in order to reduce the number of unregistered private service providers and restore a fair competitive environment in the hospitality sector.

4 Considerations for future policies and initiatives

The conceptual note mentioned in section 3.1 highlights the commitment of the Latvian state to develop the collaborative economy. It also appears to be cognisant of the inherent tension between regulating the commercial and non-commercial aspects that come to fore in such a definition. Where platform work and gig work are a form of

industrial relations, and the sharing economy is an alternative paradigm for economic activity, the terminology of collaborative economy that Latvia is operating with appears to be epistemologically problematic. For example, it exacerbates and dichotomises the commercial/non-commercial distinction that is bound to be a fuzzy one wherever cooperation is concerned. Perhaps more concerning, however, is that it also appears to impose an ideology of 'collaboration' on ecosystems and organisations that are set-up on systemically antagonistic foundations (see Wood et al., 2019). The practical implications of this (if any) are yet to be witnessed, but such paradigmatic misalignment between *is* and *ought* would not be historically unprecedented for Latvia's digital strategy (Kravcenko, 2018).

In light of this, it is encouraging to see that various state institutions involved in investigating and developing the collaborative economy are actively engaged in conversations with a variety of relevant stakeholders, including trade union representatives. The main focus of this engagement is the utilisation of digital technologies to foster the development of platform economy in Latvia, as well as employee protection and possibilities of collective representation for self-employed platform workers. As a result of recent meetings held by the Ministry of Economics with representatives of the three largest platform companies in Latvia, as well as the Free Trade Union Confederation of Latvia, the Latvian Employers Confederation, the Latvian Chamber of Commerce and the Latvian Association of New Enterprises, it was reported that no significant regulatory barriers to the development of the collaborative economy were identified, although the Free Trade Union Confederation highlighted the risks of the platform economy on job security, welfare and social security. The overall conclusion was that Latvia is facing the same types of risks as other EU Member States (Ministry of Economics, 2020).

In addition to the overarching goals of facilitating a fertile environment for digital innovation and protecting the rights of workers in the collaborative economy, effective taxation and a reduction of the shadow economy remain key concerns for policy makers in Latvia. In a recent informative note, the Ministry of Economics acknowledged that while there are simplified tax regimes for the collaborative economy in Latvia, accounting practices remain overly complicated and difficult to navigate (Ministry of Economics, 2020). A solution that is up for discussion at the moment is the introduction of a new type of business bank account for workers in the collaborative economy. Such a solution would simplify financial reporting, ensure tax revenue, and reduce the prevalence of the shadow economy. An adjacent discussion is ongoing about the minimal income threshold starting from which mandatory social security payments should begin, and what is the cost-to-benefit outcome of introducing new regulation in that respect. This is similar to the discussions outlined in the Host Country Paper (p.18 §2, p.19 §4).

5 Questions

- What is the degree to which proof of employment is legally required in Germany, and whether that can/will be tightened/relaxed for platform workers?
- There are cases where platforms have shown a willingness to work collaboratively with public institutions. To what degree (and in which ways, if at all) have collective agreements signed with platform companies proven to be successful in extending social coverage to platform workers?
- Given the way platforms work, top-down regulation and employee protection-centred solutions may well turn out to be analogous to treating symptoms instead of causes. How feasible would it be for the EU or EU Member State governments to, instead, focus on defining the characteristics of platforms and the resulting informational asymmetries that they intentionally propagate?

- If an EU-wide regulatory mechanism of some sort was to be formulated and adopted, how would issues of cross-border employment, tax, social security and enforcement be resolved?

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Annex 1 Summary table

The main points covered by the paper are summarised below.

Situation in the peer country

- The prevalence of platform work is still severely limited in Latvia.
- The main sectors involved in the platform economy are transportation, hospitality and finance.
- The primary obstacle to observing, understanding and regulating/developing platform work is the legal status of platform workers.
- The shadow economy is an area of significant concern for Latvian policy makers and platform work is seen as a potentially exacerbating factor.

National policies and measures

- Latvia has adopted a 'wait-and-see' approach, generally following EU-level developments.
- The amendment to the transportation law in 2018 defined mobile ride-sharing platforms.
- The amendments to the tourism law in 2019 aimed to reduce unregistered private service providers.
- Platform work operates under the umbrella term of 'collaboration economy', which includes environmental sustainability.

Considerations for future policies and initiatives

- Deliberate and sustained, albeit not concerted, efforts by a variety of different government ministries have been made to understand and foster the 'collaborative economy' by means of consultations with a range of stakeholders.
- A new type of a business bank account for platform workers is being considered to facilitate tax collection and simplify financial reporting.
- Attention to national tax reform and simplification of financial reporting in order to reduce complexity and administrative overhead, especially for smaller businesses and self-employed.
- Reducing the share of the shadow economy in GDP is an enduring priority for Latvia; given that platform work is difficult to regulate due to definitional ambiguity it is seen as requiring close attention in this regard.

Questions

- What is the degree to which proof of employment is legally required in Germany, and whether that can/will be tightened/relaxed for platform workers?
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- If an EU-wide regulatory mechanism of some sort was to be formulated and adopted, how would issues of cross-border employment, tax, social security and enforcement be resolved?

Annex 2 Example of relevant practice

Name of the practice:	Amendment to the transportation law to explicitly include ride-sharing services (up to 4 passengers) provided through the intermediation of a mobile app that also facilitates digital payments.
Year of implementation:	2018
Coordinating authority:	Ministry of Transport
Objectives:	To integrate ride-sharing platforms into existing legal framework. To reduce the amount of unregistered private service providers.
Main activities:	Regulation of platform firms; regulation of private service providers. Ride-sharing service can be offered, requested and approved only through approved mobile app that also calculates the fare and manages the transactions, with only electronic payments accepted. Drivers are now required to register in the Taxi Drivers register and have a minimum of 3-year driving experience.
Results so far:	Ride-sharing services successfully operating in Latvia; difficult to assess impact on shadow economy or welfare of platform workers but it is estimated to be minimal (Žukauskas, 2018).

