



# **Mutual Learning Programme**

DG Employment, Social Affairs and Inclusion

**Peer Country Comments Paper – The Netherlands**

## **Platform growth, with many uncertainties**

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

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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 the Netherlands. For information on the host country policy example, please refer to the Host Country Discussion Paper.

## 2 Situation in the peer country

### 2.1 Current status

The Netherlands has a fairly long history in the 'platform' domain. The first platform companies in the country were founded in the late 1990s and early 2000s (Frenken and Straathof, 2015).

The size<sup>1</sup>, and impact, of the platform economy has grown ever since. However, the exact status of each is unknown. There are two main reasons for this. The first has to do with lack of clarity about employment status and the number of people working in the industry (also see 3.1 Legal Employment Status). While the Central Bureau for Statistics (CBS) collects data about employees and their industries, they do not collect separate data about (employees) working through, or for, a platform. Many of the platform workers are self-employed (without employees, in Dutch: "Zelfstandige Zonder Personeel" or ZZPer), similarly to the host country.

While there is reliable data about the number of ZZPers, it is unknown how many of these work in the platform economy. Thus, at present there is no complete overview of the exact number of people in platform work.

There are, however, some studies that focus on the topic and they generate some useful insights. One study, from 2018, suggests that 10.6% of Dutch respondents in a study report to be part of the platform work force (Pesole et al., 2018). However, this includes both part-time and full-time work.

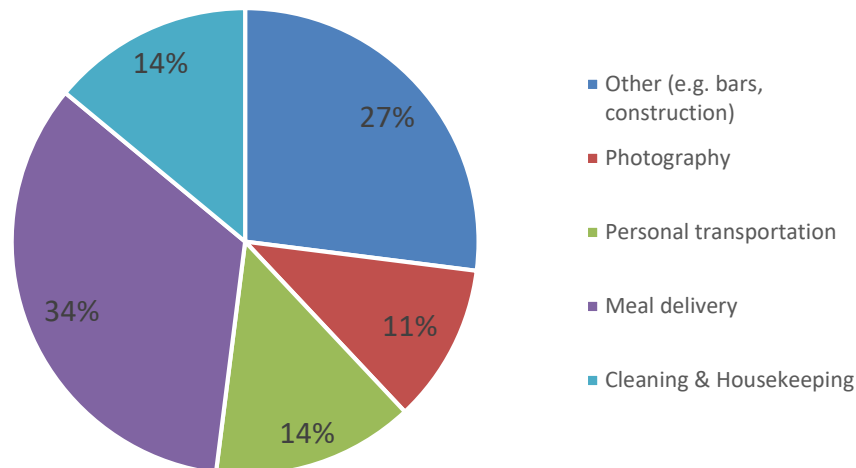
The Foundation for European Progressive Studies (FEPS, 2017) did a survey of various aspects of work in the European gig economy in seven EU countries, including the Netherlands. The study estimates that about 1.6% of the adult population in the Netherlands (equivalent to an estimated 200,000 people) earned more than half their income from crowd work. While this figure is decidedly smaller than the 10.6% reported above, it only covers the 'gig economy' and therefore constitutes a sub-section of all of platform work.

The Ministry of Social Affairs and Employment asked SEO Economic Research (Economisch Onderzoek) in 2018 (SEO, 2018), to study the size and potential of the gig economy in the Netherlands. However, this only includes those people that do physical labour (and find work through a website). It excluded parts of the sharing economy (such as ride sharing) and digital services work (such as crowd work). The study concluded that about 0.4% of the labour force (about 34,000 people) work in the gig economy. About a third of these work in meal delivery (see **Error! Reference source not found.**).

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<sup>1</sup> In line with the host paper, we see 'size' as the number of people working in the platform economy. To broaden the lens, we focus on some aspects of the broader economic and societal impact in section 2.1.1.

Figure 1. Distribution of work in the gig economy in the Netherlands



Source: (SEO, 2018)

Two thirds of the people working in this gig economy work fewer than 20 hours per week. About 25% work fewer than 5 hours per work. On average they earn EUR 787 per month (based on 20 hours), which amounts to an hourly wage of around EUR 15. In terms of demographic composition, the group is very diverse. While a large group is young and highly educated, large fractions (especially those working in cleaning/housekeeping) have a relatively low educational attainment.

In addition, 2019 study (SEO 2019) finds that, while there is some empirical evidence about job creation through platforms, the data is fragmented and focuses on small sectors or specific platforms. Furthermore, there is little evidence about job loss through platform as well as a lack of counterfactual studies that focus on what the labour situation of those working in the platform economy would otherwise have been (counterfactual data). Therefore, the report concludes that the overall impact of online platforms on employment is rather an outstanding empirical question (p. 12).

While it seems that the number of people specifically working in the gig economy is small, the number of self-employed people (ZZPers) in the Netherlands is relatively large. The number of ZZPers in the Dutch economy has been steadily on the rise for the past decades. CBS reports that 1.1 million people in the Netherlands were registered as ZZPer in the Netherlands (2019). This comprises 12% of the entire work force (8% in 2003)<sup>2</sup>.

In terms of the size of the platform economy the status quo is very similar to that of the host country. The lack of (hard) data and large variance in available data render the size of the platform economy uncertain, and in line with Germany, most likely still relatively small.

### 2.1.1 Other effects of platform work

While size, in terms of number of people, is the main focus of this paper, some work has been done in the Netherlands to look at the broader impacts of platforms. In 2019 SEO Economic Research was asked by NLdigital to do a literature review of the economic and societal effects of online platforms in the Netherlands (SEO, 2019). This review takes a relatively broad focus and includes all online platforms (which are characterised by the mediation between supply and demand of goods and services). The review found about 20 studies that report some quantitative effects on economy or society in the Netherlands. However, there has been no research about the overall economic effects of online platforms in the Netherlands (p. 23). All available studies focus on specific

<sup>2</sup> <https://www.cbs.nl/nl-nl/dossier/dossier-zzp>

(types of) platforms and/or specific themes (such as competition, labour markets or privacy). The conclusion of this review (in line with the analysis of the size of the platform labour market) is that it is impossible, at present, to assess the full economic impact of the platform economy (SEO, 2019).

Societal (non-economic) effects of platforms appear to be mixed (SEO, 2019). There are suggestions that platforms could have negative privacy effects and could lead to exclusion (e.g. based on gender or race). However, strong and specific evidence in this domain is also lacking. The Netherlands Bureau for Economic Policy Analysis (Centraal Planbureau, CPB) also lists protection of privacy and personal data as an important risk of platforms (CPB, 2016).

Consequence of the publications on economic and societal effects is a call for more research on the effects of the platform economy. In 2018, the Dutch parliament asked the Social and Economic Council of the Netherlands (Sociaal Economische Raad, SER) to provide advice about the rise of the platform economy and its consequences (Tweede Kamer, 2018). The advice is yet to be published. The SER itself suggested in separate publications to:

- further study the role of platform organisations and their effects on the economy, labour market and society as a whole (SER, 2016a),
- create room for experiments that could increase welfare, but also to intervene when user, employee and societal interests are threatened (SER, 2016b).

### **2.1.2 Conclusions regarding current status**

In sum regarding the current status, we can conclude that:

- The size of the platform economy in the Netherlands has not been studied comprehensively. There is no clear picture of the number of platforms, their users, their profitability, tax contributions, etc. (work in this area is planned).
- There are no quantifiable studies about added value for customers and companies in the Netherlands, for example in terms of customer surplus or the utility for SMEs.
- The counterfactual (or "what if") of platform work remains unknown (e.g. what would platform workers do if there were no platforms).

## **2.2 Future developments**

While the size of the current platform economy is shrouded in uncertainty, most studies agree that the future of platforms in the Netherlands is relatively bright.

The aforementioned SEO study (2018) concludes that it is possible that the number of people working in the gig economy in the Netherlands will double in the next few years. Similarly, Jonker-Hoffrén (2020) study the potential of platforms in the Netherlands (specifically for construction jobs) and concludes that the potential in the Netherlands is large, especially given the population density and small country size. Both variables aid in the matching of supply and demand and thus create a huge potential for platforms in the Netherlands.

In an unrelated scenario study, the ING Economic Bureau (2018) estimates that the number of ZZPers could grow in the near future – between 200,000 and 1,000,000 people – because of the growth of the platform economy. The variance between the two extremes can be explained by differences in the development of platform technologies, as well as legislation surrounding platform work. Regardless of the variance, the scenario study does suggest that significant numbers in the Dutch workforce could have platform-based employment (as ZZPer) in the future.



### 3 Challenges, policies and measures

There are presently no nationally coordinated, holistic, policies targeted at platforms and platform workers. Policy development is taking place in different fields, for example, the Dutch Tax and Customs Administration (Belastingdienst) is considering platform taxation policies. In addition, several challenges could impact future policy developments. The most important one of these is the legal employment status of platform workers. Rather than focusing on cohesive national policies, we therefore discuss the challenges (in line with the host paper) and reflect on the resulting policy considerations.

#### 3.1 Legal employment status

Many of the people working in the platform economy have the (tax) status of being self-employed without personnel or ZZPer. This is roughly comparable to freelance or self-employed roles in other countries. While most ZZPers work as (non-platform) independent contractors, most platform workers have the ZPP status and the rise in the number of ZZPers can be partially explained by the rise of platforms (ING Economisch Bureau, 2019). It is part of a bigger trend of flexibilisation of the labour market.

However, the key challenge is whether platform workers are, in accordance to Dutch law, indeed self-employed or should rather be classified as employees. The official stance of the Ministry of Social Affairs and Employment is that this is a court matter and several cases, on different platforms, are being decided by various judicial courts:

- In 2018 the court of Amsterdam ruled that the legal relationship between a meal delivery platform could not be classified as an employer-employee relationship. Thus, classifying meal deliverers as self-employed (Rechtbank Amsterdam, 2018).
- However, in 2019 the same court reversed its stance and decided that people delivering meals for the meal delivery platform are not ZZPers, but should rather have labour contracts (Rechtbank Amsterdam, 2019a).
- The meal delivery platform appealed and the case is still pending (as of Sept 2020).
- In July 2019 the court of Amsterdam ruled in favour of a cleaning platform that workers that get gigs through the platform do not have a labour contracting relationship with the platform. Rather, the court ruled that the client for which the cleaner provides the service should be seen as an employer (with responsibility for a labour contract). Thus, the cleaning platform in this case was deemed to be a labour mediator (Rechtbank Amsterdam, 2019b).

Thus, as of now, the legal employment status of platform workers depends on the type of work and the type of platform utilised. There are no general rules and the situation is in flux. Thus, the situation in the Netherlands appears to be similar to that of the Host country.

The differences in (legal) rights between employees and self-employed (ZZPer) in the Netherlands also bears similarity to that in the host country. The status of employees in the Netherlands is highly, and fairly cohesively, regulated. Employees with labour contracts are covered by a variety of laws in different domains such as:

- The Working Conditions Act (Arbeidsomstandighedenwet (Arbowet))  
This contains general provisions for employers and employees on occupational safety and health.
- The Working Hours Act (Arbeidstijdenwet (Atw))  
This covers the number of working hours and breaks.

- The Minimum Wage and Minimum Holiday Allowance Act (Wet minimumloon en minimumvakantiebijslag (Wml)).  
This covers minimum wage, holiday allowance, etc.

In addition, if employees are part of a collective labour agreement (collectieve arbeidsovereenkomst (CAO)), specific provisions in the CAO apply, as well as the general Act on Collective Labour Agreements (Wet CAO) and the Law on Generally Binding and Non-binding Provisions of Collective Labour Agreements (Wet AVV).

In general, the legal position of ZZPers is less cohesively regulated. Working conditions are typically part of different types of contracts, depending on field of work and type of work executed. These types of contracts are less regulated and may or may not contain provisions similar to those covered in acts and laws.

### 3.2 Taxation

One of the consequences of the growth of the platform economy is that increasing numbers of taxpayers get (part of) their income through digital platforms. Depending on the classification of workers (as employees or ZZPer), this could create challenges for taxation in the Netherlands. Currently, employers are mandated to supply wage and income information about their employees to the Dutch Tax and Customs Administration. ZZPers are responsible to supply their own information.

When platform workers are classified as ZZPers, chances are that part of these users do not declare all or part of this income. The Dutch Tax and Customs Administration does currently not have enough (contra) information to test: a) whether platform workers file their taxes correctly; and b) whether this information is correct and complete (Belastingdienst, 2020). Furthermore, from a legal perspective, the underlying legislation that determines how digital platform income is being taxed is being perceived as complicated by both platform users and the tax administration.

To tackle these issues, the Dutch Tax and Customs Administration is studying ways to improve the situation. Currently four (policy) areas/interventions are being considered:

1. Mandatory supply of relevant data by platforms ("gegevensreñseignering").  
This would mandate platforms to supply the tax administration with information about contracts so that the administration can (correctly) determine tax liabilities.<sup>3</sup>
2. Withholding obligation for platforms  
Where platforms are obliged to withhold taxes and premiums for individual users to facilitate tax collection.
3. Simplification of tax law  
A simplification of tax codes and laws could make the subject easier to understand for all parties involved and this aid in filing and collection of taxed.
4. Education  
More and better communication is seen by all parties involved as a desirable policy intervention to educate people about the tax situation. It could aid in understanding and thus compliance.

Presently these options are being further investigated with an initial preference towards a combination of areas 1, 3 and 4.

The tax administration's report further concludes that the total size of the part-time, gig and platform economies is uncertain and needs to be studied and estimated in more detail before and final policy decisions are being made.

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<sup>3</sup> This is partly covered by existing law ("Artikel 53, lid 1, onderdeel a Algemene Wet Rijksbelastingen), which allows the Dutch Tax and Customs Administration to request relevant information about payments to third parties (workers).

### 3.3 Social protection

A final relevant area that creates challenges in the Netherlands is that of platform workers' social protection. In this area, the situation in the Netherlands is broadly similar to that in the host country.

In the Netherlands, this challenge partially relates to the legal employment challenge mentioned above. Many social benefits and regulations in the Netherlands are tied to the employment status of the worker. Employees are insured (obligatory and automatically) in three areas:

- Long term disability and unemployment (Work and Income according to Labour Capacity Act, Wet Werk en Inkomen naar Arbeidsvermogen, WIA)
- Sickness (Sickness Benefit Act, Ziektewet, ZW)
- Short term unemployment (Unemployment Act, Werkloosheidwet, WW).

Self-employed typically need additional (private) insurance to gain these benefits. The same applies to pensions that are typically included in collective labour agreements or are tied to certain industries or sectors.

In addition, publications on platforms in the Netherlands mention other types of (social) risks that are especially relevant to platform workers (see Hoekstra, 2019; CPB, 2016):

- Pressures on rates by platforms and through platform power could hinder economic viability and lead to precariousness.
- Platform workers could suffer from algorithmic discrimination, resulting in potential inequalities.
- Lack of protection of privacy and personal data on (insecure or malicious) platforms.

## 4 Considerations for future policies and initiatives

The size of the platform economy in the Netherlands is small but growing. It has the potential to become a major source of work and income for many people in the Netherlands. The topic is receiving more and more attention in the Netherlands from think tanks, government (advisory) bodies, government itself and parliament. This is generally good news. There appears to be broad consensus that 'platforms' are an increasingly important topic that warrants proper legal and policy considerations. However, the situation in the Netherlands is hampered by challenges similar to those in the host country. The main considerations for future policies are the following:

- Creating clarity about the legal (employment) position of platform workers. Whether platform workers are employees or self-employed, as of now the situation about duties and rights is ambiguous and policies aimed at clarifying the situation and educating works could help. Obviously, this depends strongly on the current and future judicial developments.
- Similarly, the tax position of many platform workers is unclear and complicated. While the Dutch Tax and Customs Administration is aware of this it is unclear whether and when any changes will be implemented. Thus, this warrants ongoing attention.
- The social protection of many platform workers is relatively weak, but this depends largely on how they are classified in terms of their employment status. One area of consideration for future policies is how the social protection of self-employed could be strengthened. For example, by including ZZPers in schemes currently covered by the various laws discussed in section 3.3.

- Lastly, more uncertain and platform specific, social effects deserve more attention in policy development. This includes protection of privacy, equality (by safeguarding against algorithmic discrimination) and precariousness resulting for the market power of platforms.

The most important consideration, however, is the lack of a complete and up-to-date overview of the platform economy. The available data is fragmented and insufficient to create a comprehensive picture of the status quo. Thus, the Netherlands, like the host country, could benefit from a detailed investigation in the platform economy as a whole, as well as its underlying subtypes (such as gig and crowd work).

## 5 Questions

- What does the host (and others) see as the most logical steps in improving social protection of platform workers?
- Are there any plans to further investigate, and/or develop policies for, the more social effects of the platform economy, such as privacy protection and algorithmic discrimination?
- Are there any frameworks, methods, or insights that could help the Netherlands increase its understanding about size and impact of the platform economy in the Netherlands?

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## Annex 1 Summary table

The main points covered by the paper are summarised below.

### Situation in the peer country

- Platform work in the Netherlands is in its infancy. A relatively small number of people appear to be employed in any type of platform work.
- There is no comprehensive and complete overview of the exact size of the platform economy, leading to many unknowns in the area.
- While it is a small section of the economy, the potential of platform work is large and this is aided by the specific circumstances in the country (its small size and high population density).

### National policies and measures

- There are no holistic policies (or strategies) aimed at platform work or the (growing) platform economy. Policies are scattered across different areas.
- While not strictly a policy area, the most important challenge is that of the employment status of platform workers. This is mostly an ongoing judicial affair.
- Taxation of platform workers is complicated and the Dutch Tax and Customs Administration is considering scenarios to improve the area.
- Social protection is an important policy area, but the status of social protection is largely tied to that of employment status.

### Considerations for future policies and initiatives

- Creating clarity about the legal status of platform workers and helping workers understand their rights and obligations is an important challenge and legally tied to the outcomes of legal cases.
- The (complicated) tax situation requires ongoing attention.
- Another area of consideration for future policies is how the social protection of self-employed could be strengthened, especially for those in ZZP situations.
- Social effects, such as privacy and algorithmic discrimination, could benefit from more attention.
- The Netherlands could benefit from a detailed investigation of the (size and potential of the) platform economy as a whole, as well as its underlying subtypes in order to aid policy development.

### Questions

- What does the host (and others) see as the most logical steps in improving social protection of platform workers?
- Are there any plans to further investigate, and/or develop policies for, the more social effects of the platform economy, such as privacy protection and algorithmic discrimination?
- Are there any frameworks, methods, or insights that could help the Netherlands increase its understanding about size and impact of the platform economy in the Netherlands?

