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DG Employment, Social Affairs and Inclusion

**Peer Country Comments Paper - Norway**

## **Platform work: A marginal phenomenon raising central issues for the Norwegian labour market model**

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

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# **Mutual Learning Programme**

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

## **2 Situation in the peer country**

### **2.1 Prevalence and characteristics of platform work in Norway**

Platform work is a marginal phenomenon in Norway. In the last comprehensive survey on the prevalence of platform work, conducted in 2017, Alsos, Jesnes, Øistad and Nesheim (2017) found that 10,000–30,000 people – or 0.5-1% of the working age population – had performed work through a digital platform in the last year. Platform work in Norway is primarily what Deinert and Freudenberg (2020) define as local platform work, while online platform work is rarer, with just below 200 jobs posted monthly and around 500 active workers (Alsos et al., 2017).<sup>1</sup> In 2017, there were between 30 and 40 local labour platforms in Norway, with the two largest accounting for 4,500 active workers together (Alsos et al., 2017). However, most platform workers in Norway work rather seldom, with 45% having worked once the last year or less in 2017 and probably have another source of income in addition to platform work, while 30% worked weekly or more frequently (Alsos et al., 2017).

In recent years, one of the two largest platforms has been discontinued while the other, a large ride-hailing platform, has reorganised its operations in Norway in October 2017 (Oppegaard, 2018). Simultaneously, we have seen the arrival and growth of food delivery platforms, and the continued presence of smaller labour platforms within industries such as cleaning, freight transport and creative services (design, writing, translation, etc.). Thus, and despite the lack of updated statistics, platform work in Norway is probably approximately as prevalent today as in 2017.

Platform workers in Norway are classified as either employees, freelancers or self-employed. In contrast to their colleagues in other countries, drivers who work for the now reorganised ride-hailing platform and the bike couriers for one of the large food delivery platforms are classified as employees – the drivers by limousine companies functioning as intermediaries between the platform and the drivers, and the bike couriers by the company's Norwegian subsidiary (Jesnes, 2019). They are thus covered by the Working Environment Act (stipulating, among other things, the maximum working hours and rights concerning co-determination) and are entitled to social protection and benefits such as sick pay, pensions, unemployment benefits and injury benefits. Despite being classified as employees, the drivers and couriers in Norway are not employed on permanent full-time contracts, as is the norm in Norway, but on temporary and/or part-time contracts. Furthermore, they are remunerated either fully or partially through commissions, introducing a significant element of insecurity in their employment relationship (Jesnes, 2019; Oppegaard, forthcoming).

Platform workers classified as freelancers (common among artists and other "creatives"), also known as non-employed wage earners, are entitled sick pay and some unemployment benefits, but not pensions, injury benefits, and are in general not covered by the Working Environment Act.

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<sup>1</sup> These numbers are from 2017, but are still likely to give a relatively accurate picture of the current situation as well, as there, according to the Online Labour Index (OLI) has not been any dramatic increases or decreases in the supply of and demand for online platform work in Norway since then (despite the normal seasonal variances) (see Jesnes & Braesmann, 2019).

Lastly, self-employed platform workers, the typical "gig worker", are, in Norway, solely entitled to reduced sick pay, and have to take care of pensions and other insurances individually (Jesnes & Rolandsson, 2020).<sup>2</sup>

## **2.2 Platform work in the Norwegian labour market**

In general, the Norwegian labour market is characterised by stability. Most workers are employees with permanent full-time contracts and the proportion of freelancers and self-employed is comparatively low and unchanged over the last decade (Nergaard, 2018). In this context, platform work represents a significant divergence from the traditional norms of Nordic industrial relations (see Andersen, Dølvik & Ibsen, 2014). It is thus important to keep in mind that platform work have emerged within particular sectors of the Nordic labour market, industries where the unionisation rate, qualification requirements and earnings are low, and self-employment and part-time work relatively normalised. These industries include the taxi market, food delivery, freight transport, cleaning and creative services, and can be considered to be on the "fringes" of the Norwegian labour market model (Oppegaard, forthcoming).

In Norway, platform workers are generally recruited from already marginalised segments of the labour force, for example from unemployment or from more precarious and often physically demanding jobs. While many platform workers are migrants turning to these jobs out of necessity, there are also a large proportion of students, particularly among food delivery workers (Jesnes, Oppegaard, Ilsøe, Hotvedt, Rolandsson, Saloniemi, Saari & Dølvik, 2020).

## **3 National policies and measures**

### **3.1 Platform work in Norway: Issues of concern**

In Norway, the emergence of platform work has raised a number of issues for governments and social partners. These forms of work challenge the employment relationship, platform workers' access to social protection and benefits, their rights concerning collective organisation and bargaining, its potential for fostering a polarised and/or dualised labour market, the potential for unequal competition between platform companies and regular businesses, and taxation – both at the individual and company level (Jesnes & Rolandsson, 2020).

Platform workers' employment status – and consequently rights and social protection – has been framed as one of the most important issues concerning these forms of work, in Norway (Hotvedt, 2016, 2020). As we saw above, Norwegian workers' social protection and access to benefits are largely tied to their employment status, making the question of whether platform workers genuinely are employees, freelancers or self-employed crucial. While one of the particular features of platform work in Norway is that people working through two of the largest platforms are classified as employees, the issue of misclassification – so-called bogus self-employment – is still important. In the Norwegian Working Environment Act, the concept of an employee is defined broadly through discretionary assessment of the realities of the working relationship and certain criteria (Hotvedt, 2019): the worker is obliged to stay in service to perform personal work and cannot use substitutes on their own account; the worker is obliged to submit to the employer's supervision and control of the work; the employer provides the work location, machines, tools, work materials or other equipment necessary to perform the work; the employer bears the risk for the work result; the worker is remunerated by some form of wage; the parties' relation is relatively stable and is terminable with notice; and the worker mainly works for one employer. The core criteria for being

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<sup>2</sup> In response to the Covid-19 pandemic, the Norwegian government enacted temporary emergency measures to provide freelancers and self-employed workers without income with benefits equivalent to 80% of their average income over the last year or three years (Jesnes et al., 2020). How long the measure will be active is not yet decided.

classified as an employee in Norwegian labour law is thus being dependent on and subordinated to the employer (Hotvedt, 2019). According to Hotvedt (2016), the case of the drivers working through a later discontinued version of the large ride-hailing platform in Norway, classified as self-employed, using their private cars, paid their own taxes, toll charges, insurances and fuel, might have been one of bogus self-employment and of the company evading employer responsibilities, as the drivers had to supply their personal labour power; could not set or negotiate the price of their own labour power, but had to accept the fare set by the ride-hailing company; had a particular need for protections due to the asymmetries of power and information between them and the platform; and were subjected to substantial control exercised by the platform through its algorithmic management. Importantly, however, Norwegian labour law stipulates that re-classification of workers and allocation of employer responsibilities have to be decided on a case-by-case basis by courts (Alsos et al., 2017; Hotvedt, 2019). This means that workers who want to be re-classified as employees have to take their case to court, which can be difficult for many platform workers, who are often recruited from marginalised segments of the labour force. To date, there has been no court cases trying the employment status of platform workers in Norway, and the question of whether the status of platform workers can be regulated properly through enforcing the current legislation, or whether new provisions have to be made, therefore remains (Jesnes et al., 2020). Still, as the platform workers are generally dependent on and subordinated to the platform, it is not unlikely that self-employed platform workers in Norway taking their case to court would be re-classified as employees.

### 3.2 Regulatory efforts

At the political level, the Norwegian government has generally exhibited a "wait and see" approach to platform work (Jesnes et al., 2020). There have not been any new provisions introduced to ensure platform workers' rights and decent working conditions, no new regulation and, as mentioned, no court cases determining the proper employment status of platform workers. The first Norwegian government-appointed committee on the topic framed platform work within the "sharing economy" discourse (see NOU 2017:4).<sup>3</sup> The committee generally took a positive stance towards the "sharing economy" and suggested measures for facilitating the growth of such business models, but also that workers who cannot set selling prices themselves, but have to comply with the prices determined by the platforms, should be able to negotiate collectively with the platforms, also in cases where they cannot be deemed employees (Ilsøe, Jesnes & Hotvedt, 2020). To date, no such provisions have materialised (Jesnes et al., 2020).

In Norway, the current taxi market regulation stipulates license requirements for both operators and drivers. When a ride-hailing company began operating in Norway, in 2014, everyone with a car less than ten-years-old and no criminal record could sign up and drive, the drivers operated in breach of this stipulation, and many were sentenced and fined (Oppegaard, 2018). However, the "Sharing Economy Committee" proposed to deregulate the taxi market by removing the licence requirement for taxi operators to reduce the barriers of entry and facilitate increased competitions and the introduction of new business models (NOU 2017:4). In June 2019, a taxi market deregulation was passed by parliament. The new regulations did not remove the licence requirement, solely the numerical restrictions on licences, the duty for operators to be connected to a dispatching centre and the requirement to have taxi driving as a full-time job. The deregulation will be implemented 1 November 2020<sup>4</sup> (see Oppegaard, Saari & Saloniemi, 2020).<sup>5</sup>

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<sup>3</sup> The committee was called "The Sharing Economy Committee" and the report was named *The Sharing Economy – Opportunities and Challenges*.

<sup>4</sup> The new regulations were initially intended to be implement 1 July 2020, but postponed due to the Covid-19 pandemic and its economic consequences for the actors in the taxi market.

<sup>5</sup> Similar taxi market deregulations have also been passed in other Nordic countries (Oppegaard, Saari & Saloniemi, 2020), and represent cases where the deregulation of product and service markets might



A new committee, "The Committee on the Future of Work", mandated to consider whether the concepts of "employee" and "employer", as well as the Norwegian legal framework of labour relations and business organisation have to be amended to sufficiently regulate new forms of work and changes in the labour market was appointed by the Ministry of Labour and Social Affairs in August 2019 and will submit their report by 1 June 2021.<sup>6</sup> The committee includes representatives of the major trade unions and employers' organisations.

### **3.3 The Foodora agreement**

In 2019, one of the few collective agreements for platform workers were signed in Norway between the United Federation of Trade Unions, representing the Foodora couriers, and Foodora Norway. The agreement was signed after the workers had been on strike for five weeks demanding a collective agreement (Jesnes & Ilsøe, 2020). As the Foodora couriers are classified as employees, they have the right to organise collectively and strike (pursuant to the Working Environment Act), in contrast to self-employed platform workers. The workers' mobilisation and demand for collective agreement was initiated by the Transport Workers' Union (which merged with United Federation of Trade Unions in May 2019) in February 2019. The Transport Workers' Union had then organised approximately 100 of the 600 Foodora couriers. The trade union and Foodora were first unable to find common ground in the negotiations, but re-initiated the discussion during the strike, during which the trade union more than doubled its members and were thus able to extend the strike every week. The strike and the workers' demand for a collective agreement received vocal support from the Norwegian Confederation of Trade Unions (where the United Federation of Trade Unions is affiliated), politicians and the major media outlets. The collective agreement gave the couriers a slight increase in their hourly wage, reimbursement for equipment (although they still have to use their own private bike), extra pay during the winter months and a collectively agreed early retirement pension (Jesnes & Ilsøe, 2020). It is now considered an important victory for organised labour in Norway and an illustration that it is possible to extend traditional Norwegian industrial relations to the platform economy. Foodora has also become a member of the employers' organisation Enterprise Federation of Norway (Virke).

Despite being classified as employees and having a collective agreement, the Foodora couriers' form of employment should still, however, be considered atypical. They are employed on marginal part-time contracts, dependent on per-delivery payments (in addition to an hourly rate) and their co-determination is limited by the algorithmic management exercised by Foodora's platform (Jesnes & Ilsøe, 2020). Furthermore, Foodora has since the collective agreement was signed started hiring car and scooter couriers as self-employed, and one of its major competitors is solely relying on self-employed bike couriers. Thus, the industry as a whole cannot be considered organised.

## **4 Considerations for future policies and initiatives**

### **4.1 Improving data quality on platform work**

Improving the quality of data on platform work, as well as other forms of atypical work, is being discussed by the government and social partners in Norway. The Norwegian Labour Force Survey does not include specific questions on platform work, but an extension of the so-called A-ordningen, where data from employers is shared between the Norwegian Labour and Welfare Administration, the Tax Administration and Statistics Norway to include more data sources, is being discussed. This would give the government more and better data on atypical forms of work.

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necessitate the re-regulation of working conditions and welfare rights to mitigate the insecurities and lack of social protections of platform workers (Jesnes et al., 2020).

<sup>6</sup> <https://www.regjeringen.no/no/aktuelt/utvalg-skal-se-pa-fremtidens-arbeidsliv/id2666279/>.

Norway already has an arrangement with an international vacation rental online marketplace company wherein the company automatically reports users' income to the authorities. Such arrangements can be a solution in the case of other platforms as well, enabling the collection of both better data and taxes.

## **4.2 Applicable labour law for cross-border platform work**

The question of applicable labour law for cross-border platform work is not frequently discussed in Norway. On the issue of international law and labour law, however, Norway's available options within the EEA agreement is crucial and much debated among the government and social partners.

## **4.3 Changing labour law**

One of the core tasks of the "Committee on the Future of Work" is to assess whether the current Norwegian labour law has to be amended in the face of new forms of work. The Norwegian labour market regulation is largely based on strong social partners, collective agreements and tripartism, which enables both flexibility and measures that are broadly supported by all relevant actors.<sup>7</sup> On the other hand, the model is dependent on organised workers and employers, who are underrepresented in the consumer services sector – the main sector in which platform work has emerged. This vulnerability might have to be counteracted by regulation through law or easier enforcement of current regulations (such as measures enabling collective re-classification of misclassified workers).

## **4.4 Enabling collective agreements**

The "Committee on the Future of Work" is currently discussing the possibilities for self-employed workers to negotiate collective agreements (as "The Sharing Economy Committee" proposed in 2017). It is still uncertain whether the committee will present a concrete proposal, especially since Norway's available options within the EEA agreement for such measures might be limited.<sup>8</sup>

## **4.5 Adapting social protections**

As mentioned above, Norway has enacted emergency measures to extend freelancers' and self-employed workers' rights to unemployment benefits as a response to the Covid-19 pandemic. However, the issue of self-employed workers' social protections is generally considered less important than misclassification in Norway. Unemployment benefits for self-employed workers is particularly problematic, while occupational pensions and sick pay might be easier to implement.

# **5 Questions**

- What are the available national options for regulating platform work, for example allowing self-employed workers to negotiate collective agreements, within the EU/EEA agreement?
- The issues facing platform workers cannot solely be reduced to misclassification and lack of social protection. They also face limited opportunities for co-determination, as well as an unpredictable working environment and earnings due to the platforms' algorithmic management. How can this platform-based control be regulated?

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<sup>7</sup> In the case of platform work, the Dispute Resolution Board, resolving disputes concerning the Working Environment Act, is particularly relevant. Similar to the Ombuds Office in Germany, the DRB is independent and comprised of representatives from social partners.

<sup>8</sup> Furthermore, as the Foodora case illustrates, collective agreements in the platform economy often rely on a significant mobilisation from unions. However, unions are still having trouble organising platform workers, both because this a difficult segment to organise and because there has been few large-scale, comprehensive efforts by unions.

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## Annex 1 Summary table

The main points covered by the paper are summarised below.

### Situation in the peer country

- The platform economy is marginal in Norway, 0.5-1% of working-age population had worked for a platform in 2017.
- No comprehensive survey has been conducted since 2017, but little seems to have changed.
- The Norwegian labour market is stable and dominated by permanent full-time employment. In this context, platform work is less attractive. Platforms thus primarily recruit workers from already marginalised segments of the labour force.

### National policies and measures

- The Norwegian government has exhibited a "wait and see" approach to platform work. No new provisions have been introduced to ensure platform workers' rights and decent working conditions, and there have not been any court cases determining the proper employment status of platform workers.
- Currently, the government-appointed "Committee on Future of Work" will explore whether the legal framework of labour relations and business organisation in Norway have to be amended to sufficiently regulate new forms of work and changes in the labour market. The Committee will submit their report by 1 June 2021.<sup>9</sup>
- Provoked by the obstacles faced by a ride-hailing company met when entering the Norwegian taxi market, the taxi market is set to be deregulated in November 2020.
- A collective agreement between United Federation of Trade Unions and Foodora was signed after a five-week strike in 2019, increasing the couriers' hourly wages, and endowing them with reimbursement for equipment, extra pay during the winter months and a collectively agree early retirement pension.

### Considerations for future policies and initiatives

- Many of the core issues of platform work in Norway – such as the concept of "employee" and "employer", and self-employed workers right to collectively bargain – will be explored by the "Committee on the Future of Work".
- As Norwegian industrial relations and labour market regulation is largely based on strong social partners, collective agreements and tripartism, measures often enjoy high degree of legitimacy. However, the model is also vulnerable, as many workers and employers in the sectors where platform work has emerged are not organised.
- Norway's available options within the EEA agreement might limit the opportunity to regulate platform work and provide platform workers with social protection and rights.

### Questions

- What are the available national options for regulating platform work, for example allowing self-employed workers to negotiate collective agreements, within the EU/EEA agreement?
- The issues facing platform workers cannot solely be reduced to misclassification and lack of social protection. They also face limited opportunities for co-

<sup>9</sup> <https://www.regjeringen.no/no/aktuelt/utvalg-skal-se-pa-fremtidens-arbeidsliv/id2666279/>.

determination, as well as an unpredictable working environment and earnings due to the platforms' algorithmic management. How can this platform-based control be regulated?

**Annex 2 Example of relevant practice**

Name of the practice:	The Foodora agreement
Year of implementation:	2019
Coordinating authority:	United Federation of Trade Unions/LO & Foodora/Virke
Objectives:	Regulate the rights and working conditions of Foodora couriers in Norway
Main activities:	Collective agreement
Results so far:	Slight increase in couriers' hourly wages, reimbursement for equipment (although they still have to use their private bike), extra pay during the winter months and a collectively agree early retirement pension.

Name of the practice:	Taxi marked deregulation
Year of implementation:	To be implemented in November 2020
Coordinating authority:	Ministry of Transport and Communication
Objectives:	Limit the barriers of entry to the taxi market, increase competition and facilitate the implementation of new business models.
Main activities:	Lifting numerical restrictions on taxi licences, duty be connecting to a dispatching centre and to have taxi as one's main occupation.
Results so far:	Not applicable

