



**European Platform Undeclared Work**

**Third plenary meeting of the  
European Platform tackling  
undeclared work  
Report on 'New UDW  
developments and trends, in  
particular undeclared work in the  
collaborative economy'**

## 1 Introduction

A plenary meeting of the European Platform Tackling Undeclared Work was held in Brussels on 19-20 October 2017. The first day of this meeting was dedicated to the topic of the collaborative economy. This report summarises the discussions at the meeting, drawing also on the forthcoming study on this topic<sup>1</sup> which has been developed as part of the Platform's work.

## 2 The collaborative economy: definitions and scope

Organisations in the collaborative (or sharing<sup>2</sup>) economy 'use online platforms to connect distributed groups of individuals and enterprises and enable them to share access to their assets, resources, time and skills on a scale that was not possible before' (Vaughan and Daverio, 2016: 23). Two basic types of platform are used: asset-based platforms and labour-based platforms (RSA, 2016). The former involve the sharing of an under-used asset, such as a house or car, while the latter involve the provision of labour services and are associated with the so-called 'gig economy'.

There is no single definition of the collaborative economy. An example is the definition used in France's Tax Code (Art. 242) is "*firms, regardless of the place of establishment, which relate at distance, by electronic means, persons for the sale of goods, the supply of a service or the exchange or sharing of a good or service*". A more detailed description of the collaborative economy has been provided by the European Commission (2016: 3) as follows:

'The term "collaborative economy" refers to business models where activities are facilitated by collaborative platforms that create an open marketplace for the temporary usage of goods or services often provided by private individuals. The collaborative economy involves three categories of actors: (i) service providers who share assets, resources, time and/or skills — these can be private individuals offering services on an occasional basis ('peers') or service providers acting in their professional capacity ("professional services providers"); (ii) users of these; and (iii) intermediaries that connect — via an online platform — providers with users and that facilitate transactions between them ('collaborative platforms'). Collaborative economy transactions generally do not involve a change of ownership and can be carried out for profit or not-for-profit'.

Although the collaborative economy is currently relatively small, it is rapidly growing in significance. According to the European Commission (2016), gross revenue from collaborative platforms and providers in the EU amounted to EUR 28 billion in 2015 and it is anticipated that this figure will increase rapidly and substantially in the coming years. For example, in Italy, there were around 186 digital platforms in 2015 — an increase of 34.7 % compared to the year before.

There are four key sectors where collaborative working is most prominent. These are:

- Peer-to-peer passenger transportation (e.g. Uber, GetAround, Enjoy);
- Short term accommodation rental (e.g. Airbnb)
- Domestic services; and
- Professional services crowdworking.

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<sup>1</sup> Heyes, J. and Newsome, K. (2017) New Developments and Trends in Undeclared Work within the Sharing/Collaborative Economy.

<sup>2</sup> The terms collaborative economy and sharing economy are used interchangeably in the literature. For sake of consistency, this report refers to the collaborative economy throughout.

During the plenary meeting, Eurofound's latest research into crowd employment was presented<sup>3</sup>. It is summarised in the box below.

### **Crowd employment**

Eurofound understands crowd employment to refer to paid work organised through online platforms. It is a form of outsourcing / contracting out for on-demand services.

Crowd employment is a new trend on the labour market and there is currently a lack of strong evidence on its scale and scope. Some of the characteristics of crowdworking may have the potential to bring about structural change on the labour market – e.g. breaking down work according to tasks rather than jobs.

For the workers involved, crowdworking presents some potential benefits, e.g. flexibility and autonomy, as well as providing an opportunity for labour market integration by building up expertise and a track record.

However, there are also some risks: there are no specific regulatory frameworks for crowd employment and existing frameworks may not be suitable; limited worker representation; there may be issues around data protection and property rights, and working conditions, employment standards and social protection are not the same as for workers in the traditional economy.

*Source: Presentation given by Irene Mandl, Eurofound at the UDW Platform plenary meeting*

## **3 What is the impact of the collaborative economy on undeclared work?**

It is frequently argued that the collaborative economy has the potential to offer a range of benefits, including for example:

- flexible working patterns, leading to improved quality of life through better work-life balance,
- the improved use of resources through more effective matching of service providers and users, and
- job creation.

National governments have therefore tended to welcome and encourage the growth of the collaborative economy. For example, in Denmark a strategy for growth through the collaborative economy was recently launched, because the collaborative economy is seen as a driver for growth.

However, it is also recognised that the collaborative economy presents new policy challenges, given that it can lead to unfair competition, a growth in employment insecurity and new possibilities for undeclared work and bogus self-employment. It also has wider implications, such as for example the fact that regulations that are applied to the traditional economy (e.g. food standards) may not be applied in the collaborative economy to the same standard, or indeed at all.

The collaborative economy presents two key issues for UDW:

- Tax evasion by service providers (e.g., undeclared self-employment)
- Worker protection issues (e.g., bogus self-employment)

<sup>3</sup> The Eurofound research on crowdworking can be found at the following links: Overview report: <http://www.eurofound.europa.eu/publications/report/2015/working-conditions-labour-market/new-forms-of-employment/>; Case studies: <http://www.eurofound.europa.eu/new-forms-of-employment/>; Ongoing research: 'Employment and working conditions in specific types of crowd employment'

Tax evasion can occur as a result of cash-in-hand payments, lack of clarity concerning the distinction between commercial and non-commercial activities (or taxable and non-taxable income) or a failure to fully declare incomes earned through platforms. However, a key point to bear in mind is that, unlike other UDW which is hidden, activity in the collaborative economy is recorded by platforms; it is therefore not unrecorded in the same sense as non-platform undeclared work. The records of transactions held by platforms can, in principle, provide enforcement bodies with an extremely valuable source of information.

There are a number of worker protection issues, which include the risks (e.g. health and safety) faced by those who provide work within homes, the difficulties labour inspectors experience in gaining access to properties, downward pressure on wages resulting from unfair competition (potentially from service providers in a different country), job insecurity, inadequate social insurance protection and a lack of employment rights. Problems relating to insecurity, social protection and employment rights largely stem from the ambiguous employment status of many of those who work in the collaborative economy. Although 'service providers' in the collaborative economy are frequently regarded as being self-employed, much depends on the business model operated by the platform. To varying extents, platforms can set the terms on which 'service providers' supply their labour and the relationship between service providers and platforms can therefore exhibit some of the characteristics associated with employment relationships, potentially resulting in bogus self-employment. This presents a substantial challenge for labour law. Professors Nicola Countouris and Mark Freedland outlined two potential responses during the meeting. One would be to re-regulate work relations by, for example, expanding the definition of 'employee' or strengthening the regulation of certain types of platform. An alternative – and more far-reaching – approach would be to orientate labour law to the regulation of 'personal work relations', which would involve establishing a new 'worker' concept and the legal presumption of worker status.

## 4 Existing efforts to tackle undeclared work in the collaborative economy

The aforementioned study which has been prepared on behalf of the Platform draws on case studies from the following countries: France, Germany, Italy, the Netherlands, Spain and the UK. The study and the discussion in the Platform plenary confirm that countries differ in the extent to which they have introduced legislation and most measures are relatively new.

### 4.1 National approaches

At national level, responses to the collaborative economy are variable across Member States. Where action has been taken, some focus more upon worker protection, whilst others focus on tax evasion.

#### 4.1.1 Deterrence Measures

Countries differ in the extent to which they have introduced legislation and most measures are relatively new. Examples of legislation introduced in relation to the collaborative economy from France and Italy were presented at the seminar and are described in the box below.

#### Legislation relating to the collaborative economy: France and Italy

In 2016, a new law was introduced in **France** to protect self-employed workers providing services via a platform. This law requires the platforms to pay occupational

accident insurance for all individuals (or take out a collective policy) and to pay contributions to support the delivery of training (for workers earning over EUR 5,000 a year). It also deems the platforms to have a social responsibility towards people with a certain level of income via the platform (more than EUR 5,099.64 in 2017). In addition, the law gives those working via platforms the right to refuse to work and to organise and join a trade union.

In **Italy**, the focus is currently on undeclared income: a new decree was approved in 2017 to introduce a fiscal provision in regard to short-term accommodation rentals. This so-called 'AirBnB tax' applies a 21 % tax rate to rentals which are: for residential purposes only; do not exceed a period of rental of 30 days; and only apply between individuals. It is the responsibility of the platform to inform the Tax Agency of all contracts concluded, to withhold the 21 % tax and pay this to the Tax agency, and to send the owners an annual statement with the amount of taxes paid. The aim of this new decree is to eliminate or at least reduce the advantage that private rentals have over traditional accommodation providers (e.g. hotels), in other words their ability to avoid paying tax, which constitutes a form of unfair competition.

There is also currently a draft law in Italy to regulate digital platforms which share services and goods.

*Source: Presentation given by Anouck Lavaure, UDW Platform alternate member for France and presentation given by Romolo de Camillis, UDW Platform member for Italy*

Member States, including Germany, Italy and Spain, are using software to identify commercial activities not declared to the tax authority. However, platforms are the most important data source in relation to undeclared work in the collaborative economy. Participants are listed, and payments on online platforms are typically made electronically (e.g. via credit card), making it easier for authorities to identify potential participants in undeclared work and monitor transactions than when normal hidden cash-payments are made. Granting tax authorities the power to request information directly from the platforms is potentially a very cost-effective means of tackling undeclared work in the collaborative economy. Platforms can be obliged to inform users: (i) that tax/labour authorities are receiving this information; (ii) of their tax responsibilities, so as deter undeclared work.

Countries that have taken recent initiatives in this regard include France, where the tax administration now has the power to access lists of platform users, and the UK, where the tax authority has recently acquired the power to access bulk data from business intermediaries, including platforms. In Spain, information is collected from various sources, and analysed using an anti-fraud data matching tool.

The Italian tax authority is able to conduct checks on the accommodation sector as it is mandatory that contracts concluded through platforms be disclosed. This could be widely adopted by other EU Member States.

Italy has also required since 16 Oct 2017 that all real estate brokers (including online portals) hold 21 % of landlords' income from short rentals (defined as rentals of up to 30 days), which is treated as tax deducted at source and must be forwarded to the Tax Agency.

It is important for tax/labour enforcement authorities to receive information from Platforms on the activity taking place on them. However, the platforms need to be able to do so in a cost-effective way.

In Belgium, a new tax system was introduced in 2016 to create a level playing field between the traditional economy and internet platforms. A threshold of EUR 5,000 per annum was established: once earnings through an internet platform exceed this amount, the worker is required to register as self-employed. It is the platform's responsibility to administer the tax contributions – workers register on the platform and provide their tax ID, then the platform transmits the tax contributions to the tax

authorities. At the Seminar, a representative of a Belgian company called 'Menu Next Door' explained that the idea behind this new tax system, which was developed jointly between the government and collaborative economy platforms, is that it would bring the collaborative economy out of the 'grey' zone. It means the government knows who is working in the sector and how much they earn; whilst for the platforms, it means they can develop safely in an environment where they feel comfortable that the taxes are paid properly. It also provides some protection for people offering services on collaborative platforms, without adding new barriers to entrepreneurship – both to platforms and to potential suppliers, as explained in the box below.

#### **Menu Next Door, Belgium**

Menu Next Door is a Platform enabling (amateur) chefs to offer takeaway meals which they have cooked at home. The new tax system introduced in Belgium means that people can use the Menu Next Door platform to try out and develop their skills as a chef, because they can carry out the work without having to set up as free-lance (which can be complicated). Indeed some Menu Next Door chefs have gone on to set up their own restaurant. The profile of the chefs is as follows:

- 10-15 % are free-lance chefs who are supplying services on Menu Next Door to earn extra income;
- Around 50% are working as 'hobby chefs' – they make a turnover of less than EUR 1,000 per year;
- Around 35% are people who use Menu Next Door as a way of starting out, with the aim to become professional chefs. These people aim to reach the EUR 5,000 threshold and become free-lancers in the near future.

*Source: Intervention by Mathieu Gillet, Belgium at the Platform Plenary meeting.*

#### **4.1.2 Incentive measures**

Another important issue is the potential for confusion concerning the distinction between commercial and non-commercial activities. It is possible that activities that start on an occasional not-for-profit basis are scaled up over time and start to take place on a for-profit basis. In some countries the potential for confusion has been addressed by defining incomes of taxable / non-taxable income.

Incentive measures can also include moves to simplify tax registration processes and to inform platform service providers about their tax responsibilities, so as prevent undeclared work. In order to do this effectively, the authorities need to receive information from Platforms about the activities taking place on them and the contact details of service providers.

In Spain, for example, the Tax Agency has focused its attention on the accommodation sector. It informs all persons identified as having operated through accommodation platforms (Airbnb) that they need to declare the income received. The Tax Agency (AEAT) in Spain sent 95,000 notices informing users of accommodation platforms that they need to declare the income received if earning more than EUR 500.

France has required that platforms supply service providers with clear and transparent information about their earnings and tax obligations and (from 2018) establish a link between the platform and the tax authority website so as to inform individuals about the tax system that applies to them.

Sweden, by contrast, has focused more on information campaigns, reaching out to young people; empowering workers by providing them with information about their rights.

In Germany, the government has introduced its own platform for 'mini-jobs' (see box below), to bring supply and demand together for household services. This means the state then has control over the quality of work and working conditions.

### **Minijob-Portal, Germany**

In 2013, the Minijob-Portal was introduced as part of the German Federal government's demography strategy, which aims to meet future skills shortages, promote work-life balance and reduce the share of undeclared work in private households.

It is an online job bank for private household jobs, including in the garden, childcare and caring for the elderly. Employers and employees can register for free to search for jobs or to post job advertisements.

The portal is advertised online, on TV and social media. To date (October 2017), the portal has been accessed 2.4 million times, with 67% of the job adverts being posted by employers. There are around 48,000 registered users and 33,000 advertisements have been published. In order to register or unregister minijobs, employers submit a so-called 'household check' form (*Haushaltscheck*) to the *Minijob-Zentrale*, which declares the employment to social security services and calculates the employers' contributions to social security, disability insurance and tax.

*Source: Presentation given by Thorsten Vennebusch, Germany at the Platform Plenary meeting.*

Estonia has a voluntary initiative, which has involved the Tax and Customs Board approaching platforms to request their cooperation in providing information about the incomes of platform service providers. In order for this to happen, the platforms must ask service providers for their permission to provide information to the Tax and Customs Board. Although this initiative has resulted in the collection of additional tax revenue, it remains voluntary and has suffered from a number of difficulties, including platforms declining to cooperate because they fear that cooperating with the voluntary scheme will lead to a loss of competitive advantage.

In France, Denmark and Finland information provision is / will be seen as an important tool. In France, a practical guide has been developed for the use of economic actors on digital platforms. There are plans in Denmark to introduce a platform for guidance and questions. In Finland too, there is no new legislation on the collaborative economy at the moment and the focus is on providing information in a simple and clear format so that everyone in the collaborative economy has a good understanding of their rights and obligations.

## **4.2 Social partner perspectives**

There is broad agreement that competition between the collaborative economy and traditional economy needs to be fair and that governments need to ensure a level playing field. The social partners are also taking various steps to address issues in the collaborative economy. Trade unions in some Member States have begun to organise collaborative economy workers and have supported workers in the gig economy (notably Uber drivers) in their efforts to assert their entitlement to employment rights.

European trade unions are also starting to develop cross-border initiatives in relation to crowdworking. An example is the Frankfurt Declaration on platform-based work, which brought together workers and Platforms and calls for transnational cooperation on this issue to ensure fair working conditions and worker participation in governance of digital labour platforms<sup>4</sup>.

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<sup>4</sup> <http://faircrowd.work/unions-for-crowdworkers/frankfurt-declaration/>

There are considerable variations across the Member States in the level of advancement of social partners in addressing the collaborative economy. Possible next steps for the social partners in this area are:

- Encouraging platform users to join trade unions,
- Organising the right to collective bargaining in that sphere,
- Education and awareness campaigns on tax responsibilities and working conditions,
- Fighting unfair competition for legitimate employers (e.g., tackle undeclared entrepreneurs), especially in the accommodation sector.

## **5 Obstacles to progress in this area**

There is no doubt that participation in the collaborative economy is increasing. However, it is currently impossible to provide accurate information about the precise extent of participation in the EU-28.

A key challenge is therefore the difficulty in understanding the size of the collaborative economy and potential problems associated with it. There are no regular national surveys of participation in the collaborative economy and, with the exception of the recent Eurobarometer survey, little information that would enable a comparison of the situation in different EU Member States. The information that is available is likely to become outdated very quickly, given the pace of change in the collaborative economy.

Another issue is the difficulty in identifying employers and employees in the collaborative economy. Some platforms are very short-lived, whilst others are not registered in the country where the work is being done, making it hard to identify the employers. With regard to employees, only the platforms have information on these. Labour inspectors are not necessarily empowered to make judgements on employment status and this might be determined through (potentially lengthy) court cases, which presents a constraint on the labour inspectorate. In some instances, it may be necessary to access homes, but this might require the approval of a judge. However, approval is time-limited and might not cover the period when work is actually being performed within the home.

The volume of data relating to the collaborative economy also presents a challenge. Although there is a lot of data ready to be collected, many enforcement authorities do not have the capacity, or the resources, to analyse this data.

Indeed, investigating the collaborative economy might require a lot of resources (examining individual cases) to achieve limited outcomes. For example, in Ireland investigations into Deliveroo were carried out and it was found that most relationships were genuine self-employment. At a time when many inspectorates are suffering from budget and staffing issues, this is potentially a key issue.

## **6 What more can be done?**

There are a number of further steps that could be taken to tackle undeclared work in the collaborative economy:

### **General**

- Online platforms can be required to take more responsibility for ensuring compliance with labour and tax laws. France and the UK now require that platforms supply information to enforcement bodies and this measure could be taken across the EU-28. The experience of Estonia suggests that a mandatory approach is likely to be more effective than a voluntary approach.



- There could be greater support for smaller countries to negotiate with multinational platforms. For example, Slovenia referred to the difficulties for small countries in negotiating with global platforms. If platforms are based abroad it is harder for tax authorities to obtain information and tax payments from them.
- One approach to addressing this problem would be to introduce a binding EU legal instrument that would (i) require all platforms to report all transactions to the tax authorities in the countries in which they operate, (ii) compel platforms to supply tax authorities with information they might require in attempting to ensure compliance with tax laws, (iii) require platforms to inform users of their earnings and tax obligations and (iv) protect workers from being falsely classified as self-employed.
- In the absence of an EU legal instrument, there remains much that individual EU member countries can do.
- Member States can ensure that the difference between commercial and non-commercial activities in the collaborative economy is clearly defined and communicated to platform users.
- Member States can investigate the potential for platforms to collect tax revenues and forward them directly to the tax authority.
- Member States can bring forward measures to address concerns relating to the ambiguous employment status of many workers in the collaborative economy and the growth in bogus self-employment. Recent developments in the transport sector have highlighted the need to ensure that platforms do not treat economically dependent workers as independently self-employed persons.
- Building on experience from Germany, where the state has developed its own Platform for mini-jobs, it may be worth exploring other Platform ownership structures, for example state-owned platforms and cooperative Platforms owned by users.
- Governments need to ensure that national enforcement bodies are able to cooperate with each other and coordinate their activities. Tackling undeclared work in the collaborative economy is likely to be easier where enforcement bodies are able to work together by, for example, sharing data and engaging in joint inspection activities.
- Enforcement activities need to include both deterrence-oriented and incentive-oriented approaches. Information campaigns can reach micro businesses, SMEs, vulnerable groups etc. of the risks of taking part in the collaborative economy and the obligations. Enhanced cooperation with social partners can play a vital role in providing information on what is happening on the ground and informing the strategies of enforcement authorities.

### **Platform-specific**

- The European Platform tackling undeclared work could foster an evaluation culture prompting Member States to increase the use of evaluation to identify which measures are most effective and in what circumstances.

- In order to maximise the effectiveness of enforcement activities, it is desirable that enforcement bodies within the Platform ensure that they cooperate and coordinate their activities effectively. This might include systematic data sharing and joint inspection activities.
- Enforcement bodies face competing pressures and need to be able to evaluate the risks associated with undeclared work in the collaborative economy and its extent. Good quality data and a range of tools (e.g. for risks assessments) are required to inform targeted inspection activities.
- There may also be a need for developing common training modules to ensure that inspectors are aware of new developments, such as undeclared work in the collaborative economy, and to ensure that it receives appropriate attention.
- A mapping exercise, capable of being readily updated, could be undertaken to identify the current interventions to tackle undeclared work in the collaborative economy in each Member State and to promote mutual learning and the wider adoption of good practices.
- The Platform or some members/observers could engage, e. g. through the Commission's call for proposals for activities tackling undeclared work, in a series of 'pilot exercises' to trial and robustly evaluate innovative policy measures, and actively disseminate the findings to support replication of good practices elsewhere.

## 7 Key messages

The collaborative economy can provide a breeding ground for undeclared work and false self-employment. Action must therefore be taken.

- The collaborative economy is growing rapidly, but it is currently impossible to provide accurate information about the extent of participation in the EU-28. The lack of a single definition of the collaborative economy is a major impediment to efforts to measure its size and compare EU member countries.
- Improvements to national official statistics are being pursued but substantial knowledge gaps currently exist in relation to the size and characteristics of the collaborative economy. It is likely that information about the scale of the collaborative economy will become outdated very quickly, which implies the need for regular, systematic surveys.
- There is a need for measures to address concerns relating to the ambiguous employment status of many workers in the collaborative economy and the growth in bogus self-employment. It is important to ensure that platforms do not treat economically dependent workers as independently self-employed persons.
- Work in the collaborative economy is one facet of the wider growth of non-standard employment. There is a need to re-think social protections and find a way of relating them to the individual rather than their employment status. It is important to ensure that social protection is extended to all workers and that decent work is available to all.
- There have been important national and sectoral level initiatives. Important national level initiatives include: reforms that have enabled tax authorities to

obtain information about collaborative economy participants directly from platforms; enabling service providers to earn small amounts of income without paying tax; requiring platforms to provide essential information to users, particularly in relation to their tax obligations; and the introduction of new rights for self-employed persons who obtain work via platforms.

- Important sector level initiatives include time limits on rentals, registration requirements and information disclosure requirements (accommodation sector) and stricter licensing requirements (peer-to-peer transport sector)
- Enforcement authorities have an important role to play in tackling undeclared work in the collaborative economy. There are important examples of deterrence measures relating to tax compliance and enforcement. Incentive measures are also in evidence. These include the provision of additional advice and guidance and proactive efforts to inform platform users that they need to declare the income they have received via platforms.
- In order to maximise the effectiveness of enforcement activities, it is desirable that enforcement bodies ensure that they cooperate and coordinate their activities effectively. This might include sharing data and joint inspection activities.
- Governments should ensure that the difference between commercial and non-commercial activities in the collaborative economy is clearly defined and communicated to platform users. Enforcement bodies and platforms both have important roles to play in communicating information.
- Platforms can be required to take on more responsibility for ensuring compliance with labour and tax laws. A number of Member States have asked platforms to supply information to enforcement bodies. The experience of Estonia, however, suggests that mandatory requirements are likely to be more effective than voluntary approaches.
- More can also be done to level the playing field and ensure that unfair competition is addressed. For example, authorities can ensure that transport providers are licensed and that when applying for licenses they sign up to certain obligations in relation to labour rights and tax.
- Social partners also have an important role. The social partners in some countries have been involved in policy discussions related to the collaborative economy and trade unions are taking an increasingly active role in supporting and helping to organise workers in the collaborative economy.
- For effective action to be taken to address undeclared work in the collaborative economy it is essential there be sufficient political will.