

PES

SOCIALISTS &
DEMOCRATS



The impact of
digital economy
on employment
and social
protection



CONTENTS

04	Foreword by Sergei Stanishev
05	Introduction by Pervenche Berès MEP
05	Introduction by Yonnec Polet
06	Evolution of the digital economy (Illustration)
08	BACKGROUND
09	Evolution of the digital economy
10	What is digital economy?
11	Political and legal context
14	The platform economy: an overview (Illustration)
16	Digitalisation, platform economies and impact on social protection and labour law standards
20	The digital economy and its impact on the world of work (Illustration)
22	POLICY PROPOSALS
24	Preparing professional transitions and the diversification of professional paths
26	Guarantee in work protection
28	Comparison of standard and non-standard forms of employment (Illustration)
30	A real safety net for unemployment periods
32	Integrating all forms of work in the financing of social protection
34	CONCLUSION
36	EPSCO ministers' declaration
38	GLOSSARY
40	NOTES

FOREWORD

Socialists and social democrats have always welcomed progress. Indeed, we have always fought for it – that’s why we’re called ‘progressives’.

But our political family’s consistent commitment to progress is not simply blind adherence to a political doctrine. On the contrary: we believe that progress in many different areas of human endeavour, especially social and political, is the true way in which people’s lives are improved in accordance with our basic values of democracy, equality and social justice. We are proud of the role socialists have played in fighting for positive progress throughout history – and, of course, there is much still to do.

Nowhere is this more clear than in the today’s digital world. History teaches us that technological progress can be a powerful catalyst not only for improvements in economic growth and individual freedom, but also for great leaps forward in social rights.

As progressives, we will ensure that the digital revolution fulfils that promise. History also teaches us that progress – especially technological progress – does not automatically benefit everyone. We must make sure it is positive for the many and not only for the few. When it comes to the digital economy and specifically the world of work, we have not yet reached that point.

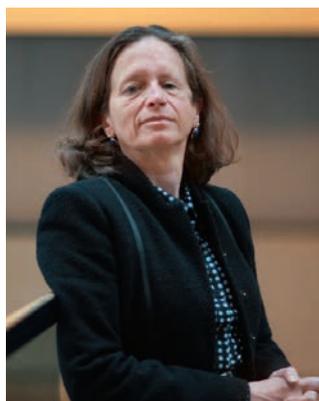
Making digitalisation work for everyone is the challenge that the Party of European Socialists sets out to tackle in this document. Our conclusions are detailed, but they can be easily summarised. If digitalisation is to count as progress in those parts of the economy where it is rapidly supplanting traditional forms of employment, then the people who work in it must not be left worse off, with fewer protections and less secure jobs, than they were before the technology came along.

The previous generation has bequeathed to us a robust European social model born of the twentieth century; our task is to ensure that it can be adapted to fit the changing world of the twenty-first.



Sergei Stanishev

Sergei Stanishev
President of the Party of European Socialists



Digital technologies have brought about, and will continue to bring about, deep changes to the world of work. These have been brought to the forefront by a multiplication of social conflicts and of lawsuits against Uber, Airbnb and other similar companies, and by widespread media coverage.

These changes apply to jobs where IT is the main tool, but also to those in which digitalisation happens through phone apps, with a highly variable but very widespread impact. Whether in terms of workplace, working time, social contribution, collective bargaining, taxation or economic model, the ongoing digitalisation process has an impact on workers across Europe.

As is often the case, there are two sides to the coin. One side is positive, with the advantages and the comfort of use brought by digital technologies. The other side of the coin raises many questions. What happens to data protection, to the rights of content producers and more generally to the relevant legislation in an ever more fragmented, internationalised and dematerialised economy? What happens to the organisation of work and social protection as we know them, when digital platforms that use apps to match services with demand blur the definitions of employee, employer, service provider and even worker?

We have to embrace technological progress. But we cannot allow this to turn back the clock to the era of day labourers and nineteenth-century working conditions. On the contrary, we should make sure technological progress does not undermine the standards set out in the European social acquis. This is the aim of initiatives such as the right to disconnect, or the creation of a professional activity account ensuring the portability of rights from one job to the other. This is also the aim of lifelong learning, which should enable workers to adapt to the evolution of their work throughout their careers. Finally, it is the aim of an extended safety net against unemployment that better takes into account the professional transition workers experience throughout their lives.

With the PES Social Europe Network, we have put forward proposals to meet the challenge. By accommodating these new tools while maintaining our high social standards, we can make the best of the new realities of work. You can find out more about our proposals in the following pages.



Dear friends,
The digital economy is profoundly changing today's world of work, our social and economic structures and the way we interact.

As socialists, it is our responsibility to ensure that the digital revolution benefits all parts of society, protects all workers equally and creates the same opportunities for everyone. This requires us to closely analyse the new realities created by the digital revolution; a laissez-faire approach does clearly not suffice.

This brochure presents the outcome of a rich exchange among PES member parties, trade unions and civil society as part of our PES Social Europe Network meetings, as well as the dedicated efforts of our ministers in the PES EPSCO ministerial meetings. It outlines concrete steps as to how to effectively address the challenges and opportunities which the digital economy brings for our society. We want to manage it properly otherwise, there is a real risk that digitalisation will favour the creation of precarious jobs and undermine workers' rights.

I hope you enjoy reading the brochure and that it will make a clear contribution to ensuring that everyone can reap the benefits of the digital economy; that everyone has access to a decent job.

Yonnec Polet
PES Deputy Secretary General

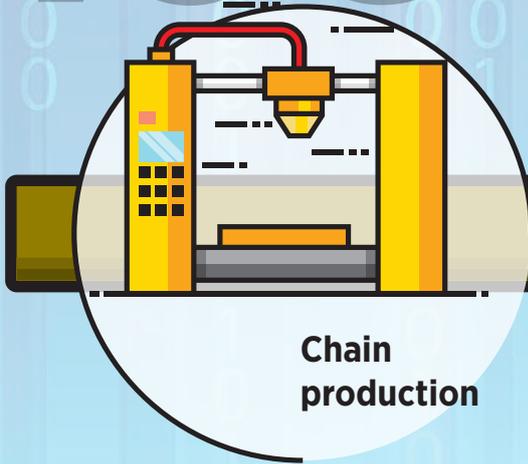
Pervenche Berès MEP
Chair of the PES Social Europe Network

Evolution of the

1980s

and before

Production

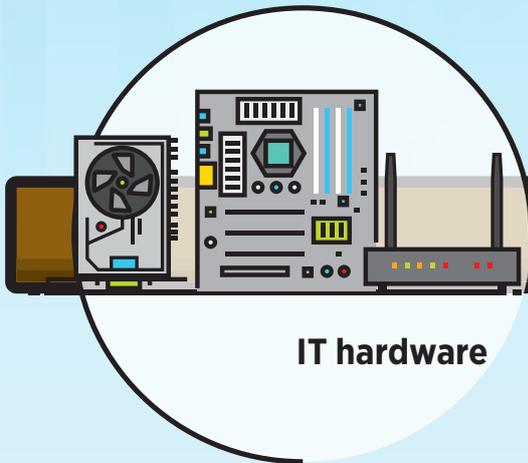


Chain production

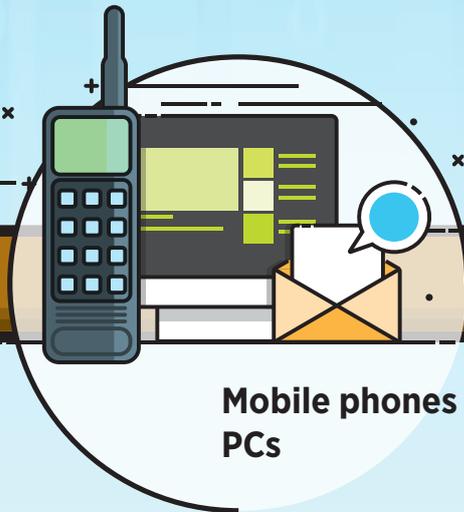


Selling goods on internet
Auctions
Travel
Books & CDs

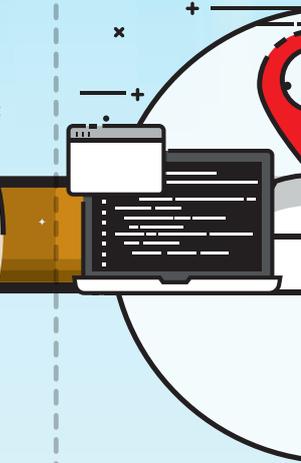
New technology



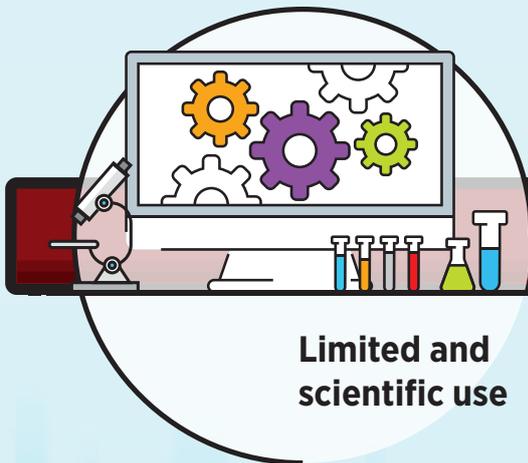
IT hardware



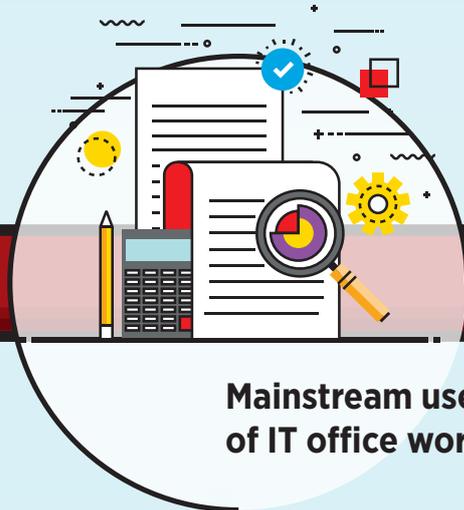
Mobile phones
PCs



Digital domains



Limited and scientific use



Mainstream use of IT office work



digital economy

Today



Robotics



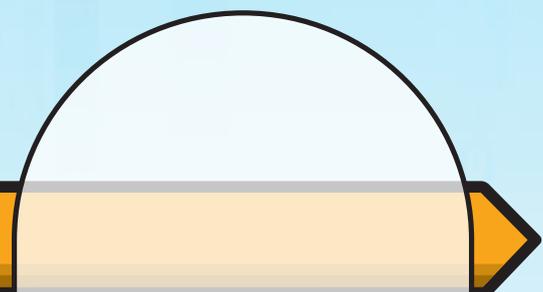
Platform economy,
Peer to peer



Connected PCs
Internet



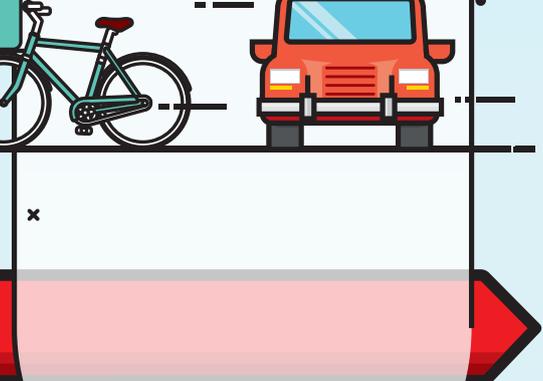
Smartphones



Mobile use of
IT Call centre



24/7



Bike delivery
Car sharing
Click work



We want everyone to benefit from technological advances and gains in productivity, flexibility and autonomy.

Evolution of the digital economy

BACKGROUND

The digital economy is transforming our societies and profoundly modifying social and economic interactions. Digital technologies facilitate business innovation, expand consumer choices, and create new jobs and work practices that promise greater flexibility and autonomy. From a technical point of view, digital services offer innovative, generally reliable and user-friendly ways to satisfy consumer needs, often at a cheaper rate than traditional services. The digitalisation of industries brings new chances for European industrial enterprises to modernise production, better address people's needs, and thus gain a competitive edge.

This digital transformation has a huge growth, innovation and job creation potential and should be supported as such, including by investment in infrastructure, digital education and companies. To reap its full benefits it is important to prepare traditional industries for the digital transition, to facilitate start-ups and the creation of innovative hubs¹.

Nevertheless, its impact on the labour market, whether as a new employment sector or by changing work practices, has led to mixed results. The transition towards a digital working environment must not undermine European working and employment standards². We want to build a sustainable digital economy, for growth, a better future, new quality jobs, new forms of solidarity and social justice for all citizens and workers³. We must ensure adequate social protection, working conditions and workers' rights in the transition towards a digital labour market and working environment.

We want everyone to benefit from technological advances and gains in productivity, flexibility and autonomy. This means that we are ready to fight for adequate training and re-training measures. We want people of all age groups and backgrounds to find their place in a changing labour market and to prevent the polarisation of employment with high-skilled ICT workers on one side and the "cybertariat" on the other. Considering the dangerous trends such

as individualisation of risk, competition to the lowest prices, and the downgrading of social protection standards, we call for a comprehensive strategy to extend existing models of protection and labour rights standards to those working in the digital economy, particularly platform workers.

Our goal is to create a level playing field between the traditional and the platform economy where all rights and obligations apply to all actors in the same way – whether online or offline.

The aim of this document is to put in context the shared progressive answers we provide to the opportunities and challenges the increasingly digitalised economy poses to our employment and social protection models.

In the following pages, we clarify our understanding of the term "digital economy", before outlining the political and legal context and the impact of digitalisation and platform economies on social protection and labour standards. This is followed by a second part that lays out policy proposals to address the opportunities and challenges outlined in this background paper.

What is digital economy?



It is important to make the distinction between platforms pursuing “commercial” and “non-commercial” activities and to distinguish between workers and users.

A variety of terms are often used interchangeably to refer to the digital economy, despite important nuances. These terms include:

- ‘4th wave of industrialisation’ or ‘second machine age’ due to the explosion of big data and the robotics market;⁴
- a “second economy detached from the physical economy;”⁵
- ‘platform’, ‘collaborative’, ‘sharing’, ‘gig’⁶, ‘crowd’, ‘on-demand’, or ‘peer-to-peer’ economy.⁷

Digitalisation and the digital economy cover the ever-increasing presence of Information and Communication Technologies (ICTs) in many jobs, the growing importance of digital companies (infrastructure, hardware and software producers), and totally new forms of work characterised by the irrelevance of geographical location, key role of platforms, network effects, and big data.⁸ This digitalisation has thus far been accompanied by substantial increases in non-standard employment, for example in form of freelancing or work in the so-called platform economy.⁹ Much attention has been focused on digital business models that operate via platforms. Most notably heralded by car-sharing services (hence the term “uberisation”), home-sharing platforms, and messenger delivery services, platform-operated businesses rely on an algorithm that matches service provider and user, assign work and manages the payment of earnings. Technology reduces the transaction costs and reduces or manages the risk of market transactions, for example where there is incomplete information about the labour provider, through a mix of monitoring systems, standard insurance mechanisms, and legal services to protect against fraud.¹⁰ By transforming employment and companies’ recruitment and human resource strategies, platform-based businesses are the most disruptive element of the digital transformation and subsequently touch on the foundation of traditional social protection systems.

Nevertheless, not all digital platforms are identical: it is important to make a clear distinction regarding the kind of activities the digital platform facilitates. While some act as service providers and sometimes use a model based on social and tax dumping, others simply aim at optimising the use of resources (car-pools for example) and have limited impact on employment and social protection. It is important to make the distinction between platforms pursuing “commercial” and “non-commercial” activities and to distinguish between workers and users. This document mainly addresses challenges related to commercial platforms.

Political and legal context

The digital transformation is fully part of the European political debate, particularly with regards to the Digital Single Market agenda. Unfortunately, in their current form, Commission proposals within the Digital Single Market still sorely miss a social dimension. In the Communication on the European Agenda for the Collaborative Economy, the European Commission defines the “collaborative economy” as “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.”¹¹ Drawing on the Annual Growth Survey 2016, the Commission argues that “a more flexible regulation of services markets would lead to higher productivity and could ease the market entry of new players, reduce the price for services, and ensure wider choices for consumers.”¹² The Commission further states that “new business models have a significant potential to contribute to competitiveness and growth” by promoting “flexible working arrangements and new sources of income.”¹³

Perpetuating the economic liberalisation narrative, the Commission offers a one-sided perspective on new forms of labour in the digital economy and does not account for the challenges arising from eroding social protection, unclear contracts, and non-compliance with labour law standards. In May 2016, 14 EU Member States expressed their concerns that a one-size-fits-all regulation of online platforms could “hamper innovation” and called for a “positive approach to digital disruption.”¹⁴

However, in the past two years, platform-operated business, in particular so-called Transportation Network Companies, have come under legal scrutiny for finding loopholes in regulatory frameworks, for example by operating taxi services without licences, lowering consumer safety and privacy standards, and violating labour law standards.¹⁵

In the US, lawsuits against platform-operated businesses, including car-sharing services Uber, Lyft and Instacart, messenger services Shyp, Postmates, GrubHub, Try Caviar and Washio, and housecleaning service Homejoy, mainly focus on the misclassification

of workers as independent contractors instead of employees, although they are clearly operating under the rules of the respective platform. For example, Uber is facing 170 lawsuits in the US alone and has been ordered to pay up to \$161.9 million between 2009 and April 2016.¹⁶ Most notably, in a class action lawsuit of up to 385,000 Uber drivers from California and Massachusetts, Uber initially proposed a settlement of up to \$100 million and agreed to changes in their policies. However, a court in California rejected the proposal, which would have settled the case without deciding on the status of Uber drivers.¹⁷ Back in September 2016, courts in San Francisco ruled that drivers who had signed up with Uber between 2013 and 2014 must go to arbitration instead of courts to resolve disputes, which apparently puts class action lawsuits off the table.¹⁸



In their current form, Commission proposals within the Digital Single Market still sorely miss a social dimension.

In Europe, several countries have banned or restricted operations by such platforms on similar grounds.

■ In a recently decided landmark case against Uber in the UK, a tribunal rejected Uber’s argument that drivers are not employed but merely using the technology of the company. The ruling finds that Uber’s range of products are clearly offered by Uber itself and not by the individual drivers, and that self-marketing is done to promote Uber’s name.¹⁹ Around 40,000 drivers are now entitled to basic rights, national living wage, sick leave and vacation days.²⁰

■ In France, Uber was ordered to pay €1.2 million to the taxi driver union following complaints that Uber drivers were acting like regular cabs, waiting on the street to pick up passengers.²¹ At the beginning of 2016, taxi drivers in France made headlines with country-wide protests, disrupting traffic and confronting the police.²²

■ In Belgium, car-sharing services such as Uber were initially banned until the Brussels city administration announced plans to modernize taxi services, including by accounting for new technological advancements while simultaneously fighting unfair competition.²³

■ After a complaint by the taxi association Taxi Deutschland, claiming that Uber does not comply with German law, Uber services were first banned in Germany when it appeared in 2014. The ruling was later overturned by a court in Frankfurt.²⁴

Addressing the challenges related to the digital economy and commercial platforms, important lessons and best practices can be learned from other sectors such as the Live Performance and Audio-visual sectors and its challenge to establish collective bargaining for self-employed workers and freelancers.



The absence of clear and coherent rules leads to confusion in several countries on how to handle the new competitors and the new work organisation they create.

■ Germany, for example, addresses the issue of collective bargaining by self-employed workers in its national law, which gives self-employed workers primarily in the press and television sectors the opportunity to benefit from the provisions of collective labour agreements under certain conditions.²⁵

■ In the UK, the collective agreement between the Broadcasting, Entertainment, Communications and

Theatre Union (BECTU) and the Producers Alliance for Cinema and Television covers freelancers.²⁶ Furthermore, in the Live Performance sector “multi-employer collective bargaining is common and is an important mechanism for setting pay and conditions for work”.²⁷ Here the agreed “rates of pay between unions and employers’ organisations serve generally as a benchmark for the sector”.²⁸ At the same time, the Live Performance and Audio-visual sectors also underline the conflict between labour rights and competition law, as most national legislations do not exclude collective bargaining from the scope of competition law, with the consequence that freelancers’ efforts to organise and bargain collectively have been largely judged illegal under competition law. This challenge can also be faced by the digital economy and commercial platforms.

■ In the Netherlands, in the case of a collective agreement negotiated between the FNV KIEM²⁹ and orchestra employers which guaranteed self-employed musicians a minimum rate of pay and pension, the Hague Court of Appeal ruled that “freelance musicians were bogus self-employed insofar as their work relationship reflected a link of subordination”³⁰. In Denmark, it has become more difficult for trade unions to negotiate collective agreements on behalf of freelance and short-contract workers. For instance, Danish freelance press photographers and freelance journalists are no longer allowed to compile and publish a list of recommended rates and terms of freelancers, which has significantly deteriorated their pay and conditions.³¹

These numerous legal cases and examples clearly show that, for digitalisation to benefit our society as a whole, a laissez-faire approach is not enough.³² Solutions must be found to increase workers’ protection. However, the absence of clear and coherent rules leads to confusion in several countries on how to handle the new competitors and the new work organisation they create. The digitalisation of our economies and labour markets in particular requires a framework national and EU-level regulation to establish appropriate standards of protection (labour and social law, contract law, trade law, data protection law, fiscal law, etc.), a comprehensive security system that is capable of dealing with the challenges arising from increased flexibility, uncertainty and instability of employment relationships, more flexible ways of organising working hours as a result of the digital economy, and investment in digital skills.³³





Teaching services



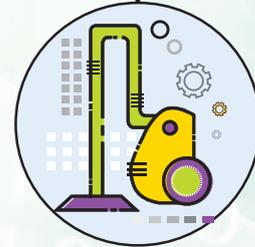
Messenger services



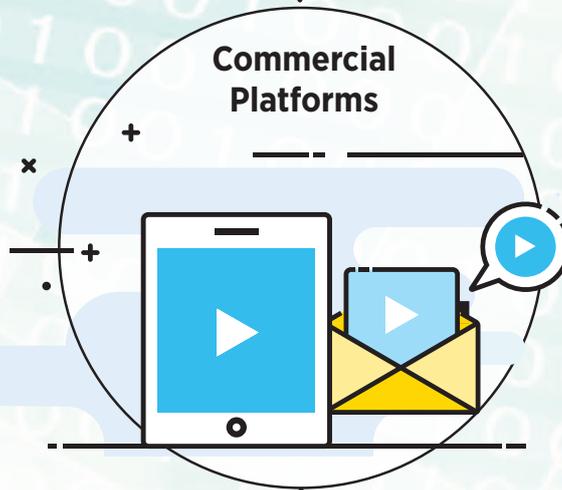
Transport services



Access to Self-employed Workers & Services



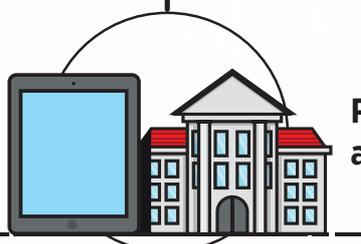
Housecleaning services



Commercial Platforms



Access to Goods & Property



Real estate and housing



Auctions



E-mail services



Online social networks



For Profit

Non-Commercial Platforms



Not For Profit

Books, etc.

Car pooling



Digitalisation, platform economies and impact on social protection and labour law standards

The digital economy has already impacted, and will further impact, the labour market in several ways, forcing changes in work practices and creating or spreading new forms of work.

Digitalisation impacts standard forms of employment

Job creation, job destruction: On the one hand, the current digital revolution creates jobs in the digital sector. For instance, over 7,000 ICT start-ups are launched in Germany every year, which already employ over one million people.³⁴ There is an increased demand for highly skilled data-oriented and engineering jobs in the ICT sector. According to the European Commission, the employment rate for ICT specialists has been unaffected by recent unemployment trends and continues to grow by three percentage points annually since 2006. This is eight times higher than the total employment growth rate for that period.³⁵ It is estimated that there will be 756,000 unfilled vacancies in the ICT sector by 2020.³⁶ On the other hand, middle-skilled, routine-intensive occupations are increasingly lost due to automatisisation, which leads to the polarisation of employment or labour market dualisation. While digitalisation is often

discussed from a technological point of view, in terms of innovation, automation and replacement of work and workers, it is nevertheless difficult to estimate and anticipate its actual impact on future job availability³⁷. The degree to which platforms will replace traditional employees is not clear. Digitalisation's main impact is more in the kind of jobs that exist, the specific tasks that are part of a profession, and the forms of employment that develop.

Polarisation of employment: Companies such as Google, Facebook, LinkedIn, Amazon, Apple, or Microsoft are relatively small in staff numbers while simultaneously outsourcing data entry work from their headquarters to countries with potentially weaker labour protection standards and lower costs. This gives rise to the notion of "cybertariat,"³⁸ which refers to the precarious working conditions of data entry workers and their competition at the lowest standards across countries and world regions. These so-called "crowd workers" often work on very small tasks that do not require a lot of skills but ensure the smooth operation of platform businesses. In parallel, platform-based businesses rely on large numbers of lower-skilled workers who fulfil manual duties, e.g. delivery services, transport services, etc. The platform economy now offers services for professions as diverse as construction workers, cashiers, truck drivers, lawyers, clerks, journalists, and medical staff.

Skills mismatch and digital divide: In 2011, half of the citizens in Europe were reported to have little or no confidence in their IT skills, with considerable differences between countries (ranging from 26% to 79%)³⁹. Digital literacy also hugely varies from one group to another within countries. Though digital technologies have a lot of advantages, we should be aware they can create new forms of discrimination. In particular, older people, women, people with a migrant background, people with disabilities and people who live in rural areas could require particular attention to meet the need for skilled labour and ensure their participation in the labour force. The increased need of digital skills concerns both the ICT sector and traditional employment sectors, as fast-paced technological change increases the risk of redundancy of workers. This strongly implies a need to prepare workers for the changing nature of work.⁴⁰ Digitalisation needs to be flanked by active industrial, education and training policies for the skilling, re-skilling and up-skilling of the workforce.⁴¹

Dividing lines between work and private life get ever more intricate: Even the more standard forms of work are facing challenges linked to digitalisation, including blurred boundaries between work and private life due

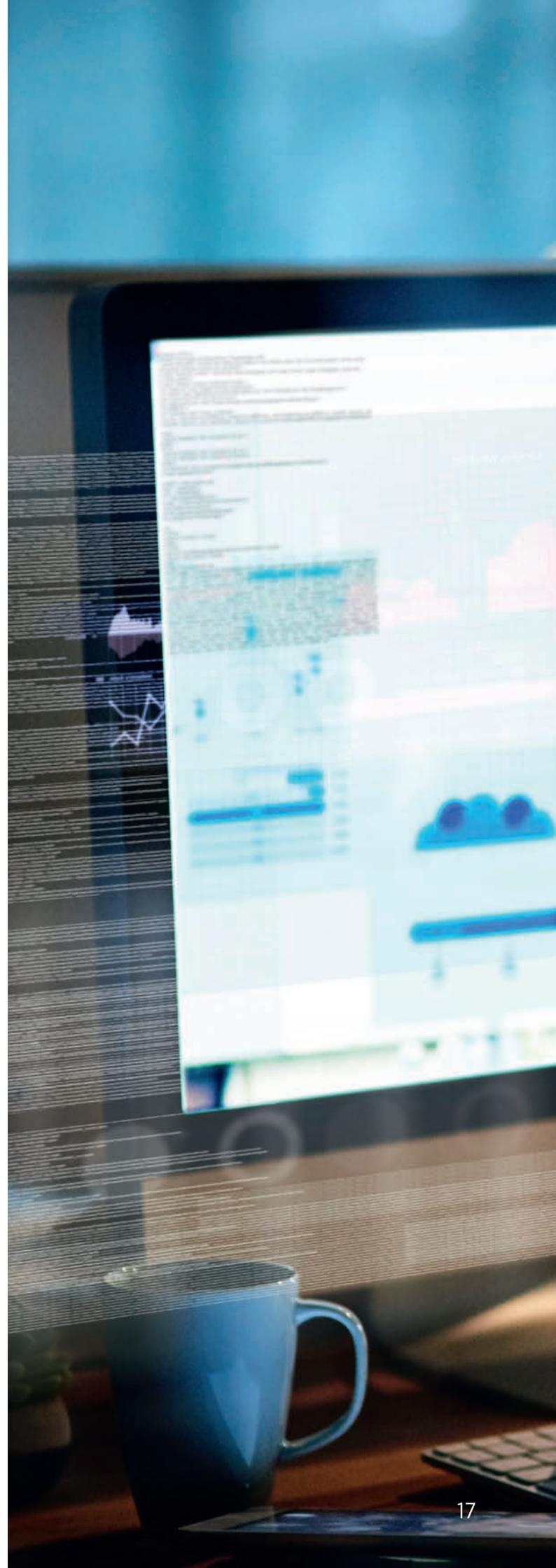
to constant connectivity. Too often, the freedom to decide when and where one works turns into an obligation to work everywhere and at all times.

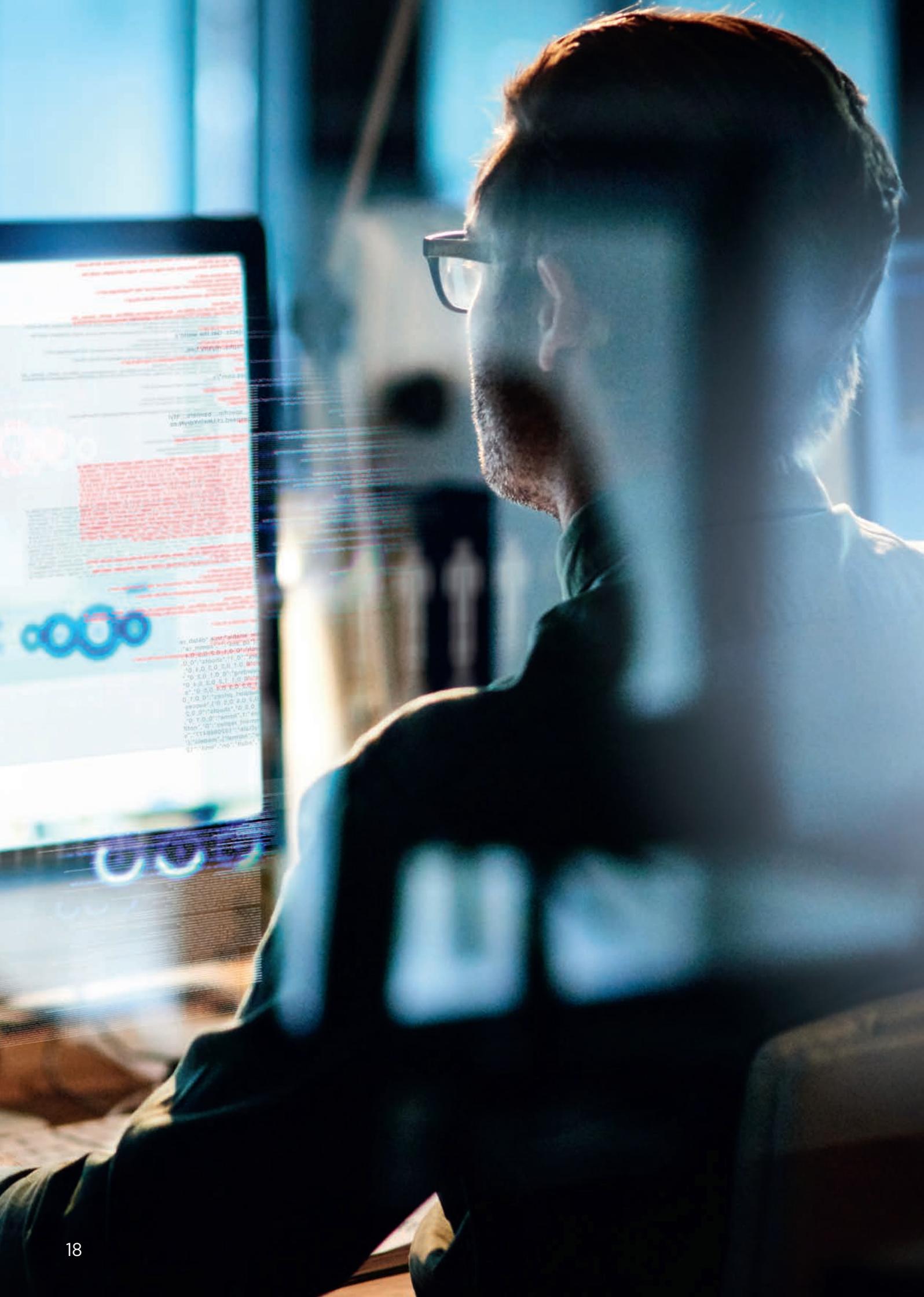
New forms of employment disrupt in-work protection

The digital transformation enables substantial increases in non-standard employment, for example in the form of freelancing and work in the so-called 'sharing economy'. Non-standard forms of employment are not necessarily unwelcomed or irreconcilable with the idea of decent work,⁴² as they can offer greater freedom for employees to choose their working time and place, to strike their own balance in terms of working time and private life. Non-standard forms of employment also open up new ways of integrating so-called "outsiders" into the labour market, offering them a way to bypass existing entry-barriers to specific labour markets. Nevertheless, the spreading of non-standard forms of employment also presents many challenges for our social protection model, and in particular, online crowdsourcing platforms could lead to a race to the bottom in terms of wages and working conditions.



The notion of “cybertariat” refers to the precarious working conditions of data entry workers and their competition at the lowest standards across countries and world regions.





Employment becomes ever less stable: The increase in fixed-term contracts and self-employment, and the shortening of contract durations, all increase the turnover of staff, competition between workers and the risk of redundancy. This is particularly the case with platform work: work is split into small packages and advertised to a large number of potential workers. This strongly plays in favour of employers in general, and platforms in particular, in terms of negotiating power with workers. It allows them a “take it or leave it” approach, increases the possibility to require ever more flexibility and availability, and creates a downward pressure on wages. The absence of certainty strongly contributes to creating precarious jobs.

Those outside of companies are too often left with no rights. Social rights are strongly linked to employment and companies, and most trade unions, social dialogue or social protection systems are still linked to standard forms of work. In this regard, as a way of outsourcing work, many non-standard forms of employment do not offer a sufficient level of protection. Temporary work, agency work, contractors, solo self-employed work and platform work all face a variety of challenges, the latter form of employment combining nearly all of them. Indeed, platform workers do not have any minimum standards of remuneration, training, working hours, health and safety nor legal and social security. Workers are selling their labour for ever-smaller part-time jobs (“gigs”), with no safety net or assurances of future work, while the associated platform profits handsomely.⁴³

Increased risks of social dumping and structural optimisation: Part of the debate also relates to the competition that non-standard forms of employment create for those engaged in regular work. Forms of employment that allow employers to drastically minimise or simply avoid contributions to social protection create a phenomenon of social dumping that is similar to the effects that can be observed in the case of posting of workers. The fact that many individuals who are hired for short-term gigs do not report the revenues they generate through platform activities not only leads to a loss in public revenues but also creates unfair competition for those who contribute their fair share to society. In addition, platform work tends to put professionals in competition with students or people on parental leave who seek an occasional top-up of their income.

Finding collective answers: Work on demand, the multiplication of short-term gigs, differences of status between workers, the absence of a common working place and often the absence of contact between workers employed by the same company or through

the same platform make it difficult to recognise shared problems, to articulate and then enforce collective interests. This might contribute to a further decline in collective bargaining coverage and generally in workers’ organisation, leaving full parts of the labour market uncovered. While alternative practices and/or structure for the organisation could be identified or invented, this also reinforces the need for state action to ensure minimum standards of wages, social protection, etc., are met. Ways must be created to (re)establish co-determination, collective bargaining, in these new sectors of activity and new forms of employment.



Workers are selling their labour for ever-smaller part-time jobs (“gigs”), with no safety net or assurances of future work, while the associated platform profits handsomely.

The Digital Economy and its Impact on the World of Work



Robotics, Big Data, Analytical Software, ICT etc.

- Automatisation of Work
- Job Creation
- Job Destruction

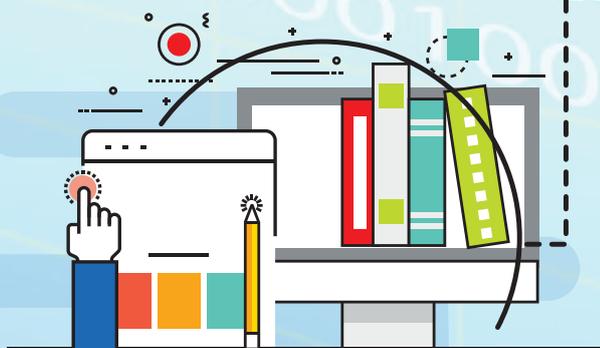


New Sectors of Employment



ICT and Mobile Devices are Widespread

- Constant Connectivity/Poor Work Life Balance
- Wide Access to Employees' Personal Data
- Flexible Working Time and Space



Digital Skills are Required

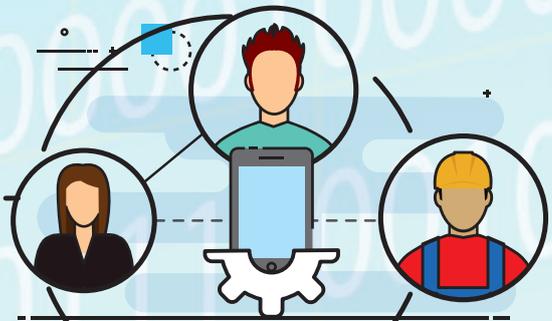
- Skills Mismatch
- New Forms of Discrimination
- Digital Divide



Change in Working Conditions



Increase in Non Standard Forms of Employment



Blurring of Employment Relationship

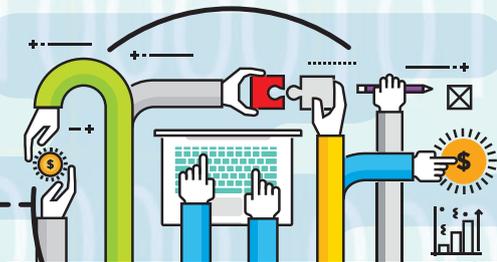
(e.g. Bogus Self-Employed, Self-Employed, Platform Work)

- Difficulties to unionise and organise collective action
- On Demand Availability
- Often No or Limited Access to Labour Rights, Social Protection and Safety Nets



Increase in Fixed Term Contracts, Self-Employment, etc.

- Weak Bargaining Power of Employees
- Less Stable Employment
- No Safety Net for Professional Transition



Splitting of Tasks along the value chain

(e.g. data entry, data management etc.)
e.g. through Platform Work, Crowd Work

- Polarisation of Employment (divide between low skill and high skill level tasks)
- Cybertariat



Outsourcing is Easier (Globally and Locally)

- Social Dumping as Business Model
- Tax Avoidance
- Unfair Competition



New Production and Value Chain Models

POLICY PROPOSALS



Rather than inventing social rights specifically for new forms of employment, the challenge is to find ways to integrate non-standard work into our social protection systems.

Technological change improves welfare, but it does not distribute it evenly. On the contrary, without policy interventions its benefits are captured by those who are already well off, in terms of capital, knowledge and education. Problems of accessibility, such as for the older people and other groups, can exacerbate inequalities. The cohesion of our society depends on addressing the distribution issue. Therefore, there is a growing need to guarantee social rights and social protection for all in an ever more digital world. Rather than inventing social rights specifically for new forms of employment, the challenge is to find ways to integrate non-standard work into our social protection systems, to find ways to extend workers' rights and social protection to non-employees of all ages.

More and better social protection has always been part of the answer to technological revolutions; we need to further these historical dynamics. We want to strike a fair balance between the promises of technology and the protection of workers, a balance that allows us to reap the benefits of digitalisation without renouncing our social model.

The following existing measures and policy proposals could be considered to provide adequate and progressive answers to these rising, often cross-border challenges and maintain the entire workforce and the companies organising their work within our social security systems. They should be implemented in respect of the principle of subsidiarity and involving all relevant levels of governance. They should always be considered as minimum standards, allowing Member States to apply stricter regulations wherever and whenever deemed necessary.

Preparing professional transitions and the diversification of professional paths

One rarely keeps the same job for one's entire life and rarely keeps the same type of employment, whether in terms of job description, status (employee, self-employed, civil servant, unemployed, volunteer...) or profession. This raises the questions of both one's present and future employability and the transferability of rights in case a worker changes job.

Preventing redundancy and increasing employment options for all

In order for workers to be equipped with the competences and skills necessary to perform their work in the context of technological change, access to training, re-training and life-long learning opportunities must become an absolute right for everybody, at all ages. This is of particular importance for people Not in Employment Education or Training (NEETS) or older workers to ensure their full access and participation in the digital economy. We believe the European

globalisation adjustment fund has to further develop to provide support to better anticipate and manage restructuring in a social and responsible way, encouraging companies to develop the individual skills of their employees. This can be done by:

- **Strengthening education and training for the digital industry**, with increased focus on teaching coding and digital skills, particularly as part of initial education and continuous vocational training.
- Encouraging higher education institutions, employers and trade unions to partner to secure the right educational offer, in terms of content, courses and formats.
- Providing **time for workers to get further training and upskilling**; establishing a **right to paid educational leave** for all workers and incentivising investment in on-the-job training.
- Ensuring frequent re-training is made available and is equally accessible to workers in standard and non-standard forms of employment.
- Providing **support to (companies offering) training** in employment.
- Unemployment insurance could be complemented with extra contributions to be channelled into **financing qualifications and up-skilling for a broader range of people in employment**. These policy efforts should be matched with appropriate investment education and training.

Recognition and registry of all activities and rights

To prevent the loss of rights when moving from one occupation to another, it is essential to ensure an effective portability of rights. Using the logic of platform-operated businesses, this could be done with:

- The creation of an individual activity account, a **one-stop-shop online registry of activities and rights** (like the French "Compte Personnel d'Activité"⁴⁴). This registry would record every form of employment throughout one's working life, including volunteering activities. It would consequently allow everyone of working age to have access to training rights regardless of their work status and situation.
- To reflect new work patterns, the online registry of activity and rights should **include the possibility of simultaneous multiple activity** by the same account owner (for example part-time employee and micro-entrepreneur at the same time).

■ Extending this **individual activity account to all forms of employment, including platform work, could create an incentive to declare work and ease the accounting of pension rights, working time, etc.** in addition to training rights. It could also be **used for the calculation of taxes, social contributions and unemployment benefits.**

■ A digital world of work requires **high standards for the protection of personal employee data.** Clear rules are required to establish what data employers may collect and analyse. Strict protection must be granted to worker health data, contents of personal communications, and involvement in trade union activities.



To prevent the loss of rights when moving from one occupation to another, it is essential to ensure an effective portability of rights.



Guarantee in work protection

The intensification of work, the increased flexibility requested from workers, and the diversification of employment forms call for increased protection of employees and better social coverage for non-standard forms of work.

Framing working time

Technological progress should not turn into additional constraints for employees. It is essential to frame the



It is essential to identify ways to enable and strengthen collective action through trade unions and collective bargaining.

use of digital technologies to ensure that it does not create an obligation of permanent availability and ensure its benefits are shared between workers and employers. This can be done by:

- Recognising a **right to disconnect**, right to be unavailable outside agreed working and standby time⁴⁵, and by extension, for platform workers, the right to temporarily deactivate an account without a negative impact on the worker's rating or a permanent deactivation of the account by the platform.

- Acknowledgement of the **workers' right to control their own working time and location**, and of the role of social partners in negotiating solutions that are beneficial for the employers and employees.

- The productivity gains realised thanks to digitalisation could connect with the **reduction of working time**.

Clarifying workers status in new forms of employment

Social protection coverage still depends on the form of employment, leaving many workers only partially covered, if covered at all. More and more questions arise as to the status of workers and the social protection linked to it. Solutions should be sought by widening the definition of employment, by strengthening support for individual self-employed and by clarifying the definition of an employer/employee-relationship.

The European Court of Justice has defined the concept of 'worker' on the basis of an employment relationship characterised by criteria such as subordination, remuneration and the nature of work. New determinants for subordination in the platform economy, such as imposed rating systems, price setting competence or control mechanisms by the platform providers, could help establish the employment relationship. The ILO Recommendation No 198⁴⁶ should also be taken into account. These elements should be used to determine the status of platform workers, either employed or self-employed, and apply the appropriate regulation. Platforms cannot simply state in their terms and conditions that everyone active on the platform is self-employed. This could imply:

- **Extending employee status to all platform workers⁴⁷** and bogus self-employed.

- **Approximating the status of platforms to that of temporary work agencies, whenever they function similarly**, imposing similar regulation to both.

- **Automatically extending collective agreements to wider categories of worker than 'employee'**, with a view to including platform workers.

- Creating **protective regulations on self-employment** to protect workers who do not qualify as employees.

- Ensure a **careful set up of the European Commission's e-card project⁴⁸**, preventing it turning into an open door for the creation of letterbox companies and bogus self-employment.

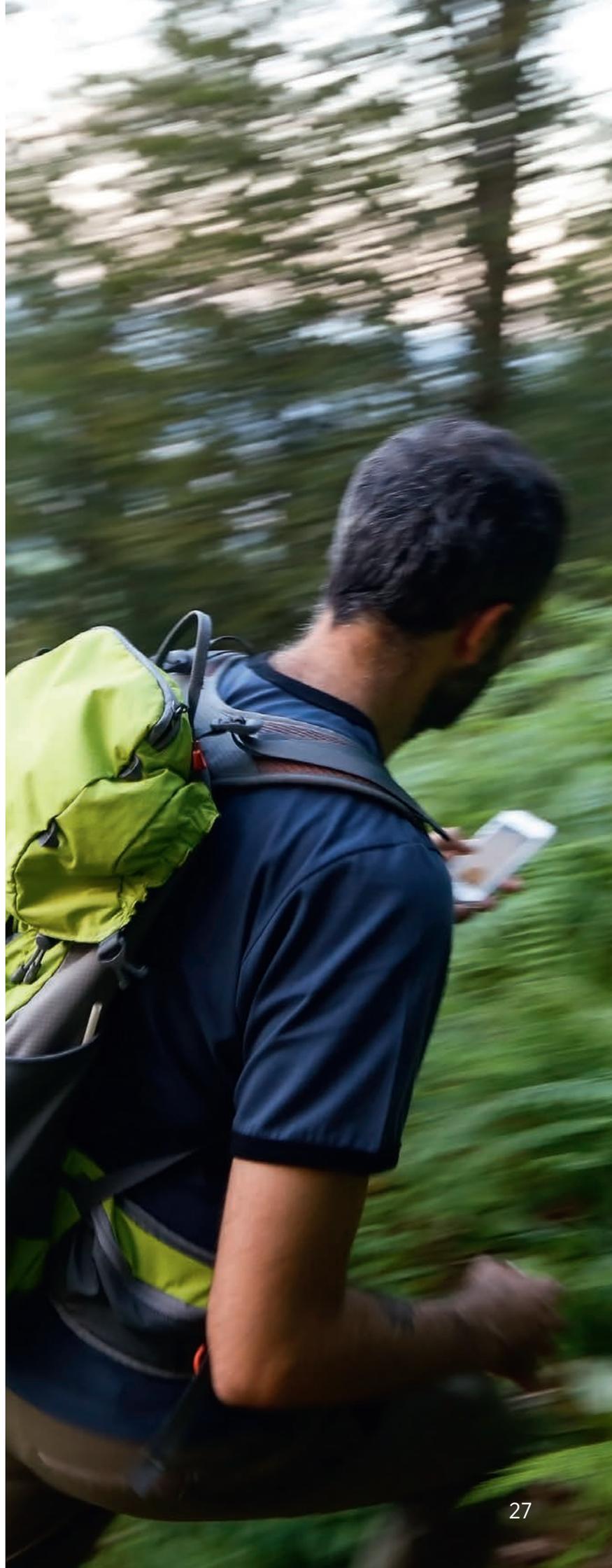
Ensuring workers' organisation and enabling collective action

To counterbalance the difficulties new forms of employment generate for the organisation of workers, the recognition of shared problems, and the enforcement of collective interests, it is essential to identify ways to enable and strengthen collective action through trade unions and collective bargaining. This can be done by:

■ Ensuring that **solo self-employed people have the fundamental right to organise**, undertake collective actions and negotiate collectively, and that they are considered as individual workers rather than independent contractors, exempted from EU rules on anti-competitive practices if they act collectively (cartel building).

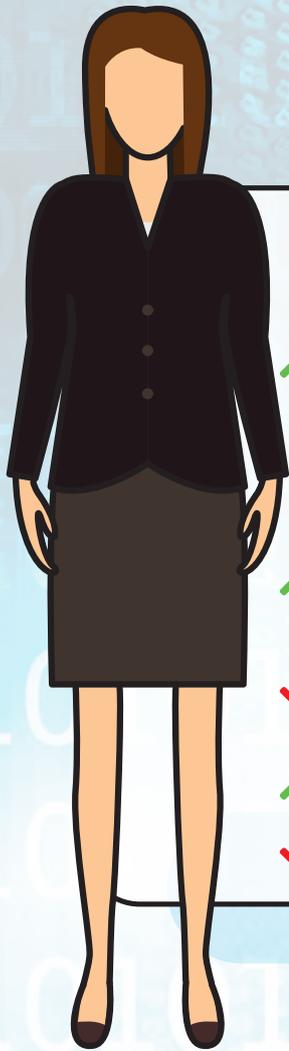
■ **Modernising collective agreements in order to extend existing protection standards to the digital economy.** Platforms should provide possibilities for trade unions to reach the workers and for workers to reach each other. They should also provide spaces for exchange and collective action, including by rating the platform in a similar way to the way in which workers are rated.

■ At the same time **platforms must accept their social responsibility** and participate in social dialogue.



Comparison of Standard and Non-Standard Forms of Employment

Permanent Employment



WORKING ARRANGEMENTS

- Contract specifying working conditions and terms of employment
- Wage set through minimum wage or collective bargaining

↑ WORKING CONDITIONS

- Set and guaranteed by the employer
- Legal minimum labour standards and protection apply
- Can be set through collective agreements
- Enforcement mechanisms

↑ SOCIAL PROTECTION

Access to social protection (fully or partly covered by the employer)

↓ HIERARCHY/ LINK OF SUBORDINATION

Strong link of subordination

↑ STABILITY

High level of stability

↓ FLEXIBILITY

Low level of flexibility

Temporary Employment



WORKING ARRANGEMENTS

- Contract specifying working conditions and terms of employment
- Wage set through minimum wage or collective bargaining

↑ WORKING CONDITIONS

- Set and guaranteed by the employer
- Legal minimum labour standards and protection apply
- Can be set through collective agreements
- Enforcement mechanisms

↑ SOCIAL PROTECTION

Access to social protection (fully or partly covered by the employer)

↓ HIERARCHY/ LINK OF SUBORDINATION

Strong link of subordination

→ STABILITY

Medium to low level of stability

↓ FLEXIBILITY

Low level of flexibility



Self-Employed

WORKING ARRANGEMENTS

- Contract specifying goods or services delivered, its price, location and time
- Determined by supply and demand
- Multiple customers
- Self-employed keeps profit

↑ WORKING CONDITIONS

- Set and ensured by the self-employed

↓ SOCIAL PROTECTION

- Limited access to social protection
- Carried by the self-employed

↑ HIERARCHY/ LINK OF SUBORDINATION

Independence

↓ STABILITY

Low level of stability

↑ FLEXIBILITY

Medium to high level of flexibility



Bogus Self-Employed

WORKING ARRANGEMENTS

- Contract specifying goods or services delivered, its price, location and time
- Price set by a single "customer"

↑ WORKING CONDITIONS

- Set and ensured by the bogus self-employed

↓ SOCIAL PROTECTION

- Limited access to social protection
- Carried by the bogus self-employed

↓ HIERARCHY/ LINK OF SUBORDINATION

Strong link of subordination

↓ STABILITY

Low level of stability

→ FLEXIBILITY

Low level of flexibility



Platform Work

WORKING ARRANGEMENTS

- Short-term, part-time contracts
- Contract specifying goods or services delivered, its price, location and time
- Price set by platform

↓ WORKING CONDITIONS

- Set and ensured by the platform and the platform worker

↓ SOCIAL PROTECTION

- Limited access to social protection
- Carried by the platform worker

↓ HIERARCHY/ LINK OF SUBORDINATION

Strong link of subordination

↓ STABILITY

Low level of stability and lack of predictability

↑ FLEXIBILITY

Low to high level of flexibility

↑ High

→ Medium

↓ Low

A real safety net for unemployment periods

There is an increase of transition periods in professional life, which often correspond to unemployment periods. Providing an adequate safety net becomes ever more necessary, in particular to compensate the cost of transitions from one job to the other and the loss of income.

A strong social safety net for all

Considering that employment takes more and more diverse forms and that unemployment periods get more frequent, there is a need to move from social protection linked to employment status to a universal one.

The following proposals could be considered:

- **Universal access to social rights** (health, education and training, ...) attached to individuals rather than employment status.⁴⁹

- Rethinking the question of minimum income, either with a decent conditional **minimum income** (income safety net), possibly complementary to wages up to a set threshold, or with a unconditional basic **universal income** (available to those in and outside employment)⁵⁰

- Providing **support to people starting a business** as a transition period.

- Introducing a **public job guarantee** providing every job-seeker with employment in order to concentrate public resources on the people most in need, preserve the social functions of work, and guarantee that people are protected not just from economic poverty but also from socially poorer lives.⁵¹

- **Extending to all (new) forms of work existing statuses foreseeing alternating periods of activities with periods of professional inactivity**, such as the French and Belgian "Statut d'intermittence"⁵² or the status of musician belonging to orchestras in the Netherlands.

- **Create real insurance against unemployment, ensuring benefits are accessible** to the whole active population. The system needs to be adapted to job-starters' situations and to the proliferation of non-standard forms of employment through decreasing the minimum period of contributions needed to access unemployment benefits, better covering self-employed people, and including insurance against imposed part-time work.

- Creating **European unemployment insurance** to complement national unemployment benefits.



We need to move from social protection linked to employment status to a universal one.



A futuristic car body is shown on an assembly line. The scene is illuminated with a mix of blue and red lights, creating a high-tech, industrial atmosphere. The car's frame is metallic and appears to be in the final stages of construction. The background is filled with various mechanical components and structures, suggesting a complex manufacturing environment.

“

The platform economy, like any other economy, must pay tax and social contributions, comply with employment and social legislation, and ensure consumer protection.

Integrating all forms of work in the financing of social protection

Without hampering innovation and the creativity of new business models, it is important to prevent free-riders and avoidance phenomena when it comes to contributing to social protection. The platform economy, like any other economy, must pay tax and social contributions, comply with employment and social legislation, and ensure consumer protection. The high transparency potential of the platform economy allows for good traceability, in line with the aim of enforcing existing legislation. This is important for the financing of our social model and for fair competition between various economic operators. Considering the international dimension of platform businesses, enforcing existing legislation would require the adoption of common rules.

Integrate the cost of social protection in new forms of work

A priori, digital platforms as vehicles for transactions imply the traceability of exchanges.⁵³ Geolocation and receipts are fully part of the platform's functioning. Technological means exist to integrate the cost of social protection in new forms of work; we need to ensure they are used. In fact, technology offered by platforms could make employment regulation more effective, as it allows for the efficient monitoring of micro-transactions as well as for their incorporation into insurance systems. Monitoring through platforms could also help to enforce health and safety regulation.⁵⁴ The following solutions could be envisaged:

- Collecting a **tax corresponding to social contribution on each transaction linked to platform work** would incorporate the cost of social protection in the price of the service sold on the platform. This could open rights to social benefits for the worker only after a fixed threshold is reached. To the contrary, some call for a legal tax "franchise" below a certain level of working hours.

- **Co-financing by the client of social contributions for crowd workers and solo self-employed people**, in a similar way the employer would do with an employee. The platform could withhold taxes and repay them to public authorities. The system could be extended to all companies that massively outsource work to self-employed people.

- In order to **mitigate the impact of robotics and artificial intelligence** on the labour market, taxes on the work performed by a robot or a fee for the use and maintenance of a robot should be envisaged. This would in practice (re)balance taxation on labour and taxation on capital and could contribute to the financing of social protection and to the retraining of workers whose jobs have disappeared as a consequence of automation.⁵⁵

Continue the fight for fair taxation

Platform companies are often international and declare their profit where tax rates are lower. To finance social protection and prevent dumping, it is essential to ensure international companies contribute their fair share of national taxes and charges where their activity takes place. Similarly it should be possible to ensure the effectiveness and enforceability of rights in situations where workers and employers are based in different countries. This can be done by:

- **implementing EU regulation and international negotiated solutions.** Efforts must be further intensified and set as the highest priority at EU and international level.

- Building on the example of existing **agreements between platforms and local authorities.**⁵⁶

- Continuing **to fight against international tax avoidance and tax competition.**

- Strengthening **corporate social responsibility.**



CONCLUSION

We want to avoid a situation in which “the industrial revolution of the 21st century plunges the world back into social conditions reminiscent of the 18th century...”⁵⁷

In 2016, the European Commission launched a new initiative and proposed a European Pillar of Social Rights which aims at modernising social rights and taking “into account the changing realities of Europe’s societies and the world of work”.⁵⁸

We want to seize the opportunity to rebalance economic freedoms with social rights. This clearly means addressing the impact of digitalisation on employment and the rise in non-standard forms of work, proposing adequate regulation for the welfare of all.

Declaration of PES Employment and Social Affairs Ministers Ensuring decent work and social protection in the digital economy

Adopted in Luxembourg, 14 June 2017

Confronted to challenges resulting from globalisation, demographic change or digital revolution, there is a risk that Europe's citizens will lose trust in the European project, its institutions and decision makers. To regain their trust, our answer is clear: **there is an urgent need for a more social Europe, for a Europe against inequalities, for a Europe of decent working conditions, and for a Europe of strong social protection.**

As PES Ministers of Employment and Social Affairs we are convinced of the need **address the deep and fast changes employment, jobs and work are undergoing, in particular due to an ever more digital economy.**

Therefore we welcome the consultation the Commission has announced on 26th April on modernising the rules on labour contracts and on broadening access to social protection to all forms of work. We believe this process should lead to **a strengthening of our welfare system, and to clear rules that ensure Europeans, women and men, a decent job** that allows a good quality of life.

Digital technologies facilitate business innovation, expand consumer choices, and create new jobs and work practices that promise greater flexibility and autonomy. The digital transformation has a huge growth, innovation and job creation potential and should be supported as such, including by investment in infrastructure, digital education and companies. Nevertheless, its impact on the labour market, as a new employment sector or by changing work practices, has led to mixed results. The transition towards a digital working environment must not undermine European working and employment standards.

In a labour market where one rarely keeps the same job for the entire life and rarely keeps the same type of employment, may it be in terms of job-description, status or profession, we want to **strike a fair balance between the promises of technology and the protection of workers.** To reach this objective and address the structural changes of employment, it is necessary to create **a level playing field between the traditional and new forms of work**, where all rights and obligations apply to all actors in the same way – no matter if online or offline. More and better social protection has always been part of the answer to technological revolutions; here **are seven proposals** to further these historical dynamics.

1. Preparing professional transitions and the diversification of professional paths

We want people of all age groups, education levels and backgrounds to find their place in a fast-changing labour market. As part of **an ambitious skills guarantee**, we will prevent redundancy and increase employment options for each worker by **strengthening education and training for the digital industry**, providing **time for workers to get further training and upskilling** and establishing opportunities **for paid educational leave** for all workers as well as **incentivising investment** in on-the-job training.

2. Guarantee in-work protection

Technological progress should not turn into additional constraints for employees, its benefits should be shared between workers and employers. It is essential to ensure that it does not create an obligation of permanent availability, by acknowledging **the right for employees to disconnect**. The intensification of work, the increased flexibility requested from workers, and the diversification of employment forms call for increased protection of workers, irrespective of their status. In this regard, we should look at the **framework directive on decent working conditions in all forms of employment** as put forward by the European Parliament.

3. Clarifying workers status in new forms of employment

Social protection coverage strongly depends on the form of employment, leaving many workers only partially covered, when covered at all. More and more questions arise as to the status of workers and the social protection afferent to it. Solutions should be sought **by clarifying the definition of the employment relationship**.

4. Ensuring workers' organisation and enabling collective action

New forms of employment can make the organisation of workers, the recognition of shared problems, and the enforcement of collective interests, more difficult. It is therefore essential to **identify ways to enable and strengthen collective actions**, through trade-unions and collective bargaining, including by **using the technologies digital platforms offer**.

5. A real safety net for unemployment periods

There is an increase of transition periods in professional life, which often correspond to unemployment periods. **Providing an adequate safety net to all European workers to better protect them against the hazards of their working life** becomes ever more necessary, in particular to **compensate the cost of transitions**

from one job to the other and the loss of income. This safety net should be designed in full respect of the subsidiarity principle.

6. Ensuring the portability of rights

We want all activities and rights of each workers to be recognised and taken into account to reflect the many transitions workers are experiencing in their careers. We must **support opportunities for lifelong learning, for example through the creation of "activity accounts"**, and in a broader sense a safety net all through their lives, irrespective of the changes and gaps in their careers.

7. Fight free-riders and tax avoidance phenomenon.

The platform economy, like any other economy, must pay tax and social contributions, comply with employment and social legislation, and ensure consumer protection. It can not become an alibi to circumvent social and health protection obligations. Dematerialisation has allowed too often for companies to evade those duties. We will thus continue our fight against tax and social dumping all along the supply chain. The very technology **of the platform economy could allow for good traceability**, and a better enforcement of existing legislation. This is important for the **financing and sustainability of our social model** and for a **fair competition between workers**.

We want these principles to lead the Member States' and the EU's efforts to adapt social protection and employment legislation to the challenges of the 21st century. The **European Pillar of Social Rights offers the opportunity to rebalance economic freedoms with social rights, to redirect technological progress to the benefit of workers**. This can be done with adequate regulation framing the digitalisation of employment and the raise in non-standard forms of work. **We will make sure that modernising social rights rhymes with increased protection** rather than deregulation.

GLOSSARY



Algorithm: is a process or set of rules to be followed in calculations or other problem – solving operations, especially by a computer.¹ It can, for instance, help to match service providers and users.

Big data: consists of datasets too large to be analysed using standard software and tools. It is characterised by three principles: high velocity, high volume and high variety, summarised as the “3 Vs”.

Bogus – self employed: describes a direct subordinated employment relationship being disguised as self-employment where the characteristics and activities of self-employment (autonomy, tendering for different clients etc.) are limited or non – existent; while at the same time not recognising or granting employment and social rights, nor employers’ liability and responsibility towards their employees.²

Crowdsourcing platforms: are online platforms allowing companies or individuals to publish tenders for work assignments for which independent contractors or freelance workers compete irrelevant of geographical location.

Cybertariat: is a combination of the terms “cyber” and “proletariat”. It refers to the precarious working conditions of digital workers, for instance, data entry workers and their competition at the lowest standards across countries and world regions.³

Digital economy: stands for the ever-increasing presence of Information and Communication Technologies (ICTs) in many jobs, the growing importance of digital companies (infrastructure, hardware and software producers), and new forms of work characterised by the irrelevance of geographical location, key role of platforms, network effects, and big data.⁴

Gig economy: similarly to musicians moving from one concert to another, the gig economy builds on a way of working where people have temporary jobs and do separate pieces of work, each work and each piece being paid separately.

Network effects: arise where the value of a product to its users increases with the number of other users of the product. This is frequently the case in digital markets, where the increasing popularity

of a platform attracts additional users as well as other groups, such as advertisers or applications developers, to the platform.⁵

Non – standard forms of employment:

is an umbrella term for employment arrangements that deviate from fulltime dependent employment with a contract of indefinite duration which is generally considered – standard employment. Non – standard forms of employment include temporary employment; part-time (permanent and temporary) and on-call work; temporary agency work and other multiparty employment relationships; as well as disguised employment and dependent self-employment.⁶⁷

Platform economy: is an economy based on the use of online platforms that create an open marketplace and matching service locally, trans – locally and globally to facilitate temporary access to goods, property and services, including labour outsourcing.⁸

Polarisation of employment: describes the polarisation of employment into high – skilled (e.g. ICT workers) and low – skilled jobs (e.g. data entry), as well as standard and non – standard forms of employment, which may further result in an increasing discrepancy between high – and low paying – jobs.⁹

Social dumping: implies a downward pressure on social conditions due to competition from countries with lower social standards or the practice of market participants of undermining or evading existing social regulations with the aim of gaining competitive advantage.¹⁰

Transportation Network Companies:

is an organisation whether a corporation, partnership, sole proprietor, or other form that provides prearranged transportation services for compensation using an online – enabled application or platform to connect passengers with drivers using their personal vehicles.¹¹

Uberisation: is a term derived from the name of the transportation network company Uber. It refers to spreading of the company’s digital business model which operates via online platforms.



NOTES

Page 09

Evolution of the digital economy

¹ S&D Group. 2015. "Towards a Digital Union – Our Progressive Vision." *Position Paper*. Accessed on November 16, 2016. <http://www.socialistsanddemocrats.eu/position-papers/towards-digital-union-our-progressive-vision-0>, 4

² PES Programme for Progressive Reforms, November 2015

³ S&D Group Prague Digital Declaration, Together for young people, social solidarity and equality in the digital age, adopted a PES council in Prague 2_3 December 2016

Page 10

What is digital economy?

⁴ Brynjolfsson and McAfee in Degryse, Christophe. 2016. *Digitalisation of the economy and its impact on labour markets*. Brussels: ETUI, 11

⁵ Arthur in Degryse 2016, 12

⁶ Similarly to musicians moving from one concert to another, the gig economy builds on a way of working where people have temporary jobs and do separate pieces of work, each work and each piece being paid separately, rather than working for an employer.

⁷ We favour the more descriptive and neutral term of "platform economy" to other terms. On the meaning of some of these terms: Huws, Ursula. 2016. "Platform labour, sharing economy or virtual Wild West?" *The Technological Revolution, Journal for a Progressive Economy* 8 (January 2016). To name a few platform businesses: Uber, Lyft, Amazon Mechanical Turk, TaskRabbit, Airbnb, CoContest, Blablacar, Justpark, Upwork, La Ruche qui dit oui, etc. They all fall under one or several of these terms, although they have different ethics, different practices, and different market positions.

⁸ Valenduc, Gérard, and Patricia Vendramin. 2016. *Work in the digital economy: sorting the old from the new*. Brussels: ETUI, 7

⁹ Joint declaration by ÖGB, Uni Europa, and GPA-djp on Digitalisation, Work, and Employment in the EU. Accessed on 21 December 2016. http://www.uniglobalunion.org/sites/default/files/public_shared/files/dsm_declaration_en_final.pdf.

¹⁰ Drahokoupil, Jan, and Brian Fabo. 2016. "The platform economy and the disruption of the employment relationship." *ETUI Policy Brief No. 5*, 2

Page 11–12

Political and legal context

¹¹ European Commission. 2016a. "Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee

and the Committee of the Regions:

A European agenda for the collaborative economy.”

COM(2016) 356, 2 June, 3

¹² EC 2016a, 4

¹³ EC 2016a, 2

¹⁴ Joint letter from Belgium, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Ireland, Latvia, Lithuania, Luxembourg, Poland, Slovenia, Sweden and the United Kingdom in preparation of the Transport, Telecommunications, Energy and Competitiveness Council meeting of 26 May 2016.

¹⁵ European Parliament. 2015. “Social, Economic and Legal Consequences of Uber and similar Transportation Network Companies (TNCs).” Accessed on November 16, 2016.

[http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/563398/IPOL_BRI\(2015\)563398_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/563398/IPOL_BRI(2015)563398_EN.pdf).

This brief draws on a ruling by the California Public Utilities Commission and defines a TNC as “an organisation whether a corporation, partnership, sole proprietor, or other form... that provides prearranged transportation services for compensation using an online-enabled application (app) or platform to connect passengers with drivers using their personal vehicles.”

¹⁶ The Guardian. 2016a. “Uber lawsuits timeline: company ordered to pay out \$161.9m since 2009.” Accessed on November 16, 2016. <https://www.theguardian.com/technology/2016/apr/13/uber-lawsuits-619-million-ride-hailing-app>.

¹⁷ The court’s concern was largely with the settlement’s reduction in the massive potential penalties that could be recovered (mostly for the State of California) under the Private Attorney General Act (PAGA).

¹⁸ Uber Lawsuit. Accessed on November 16, 2016. <http://uberlawsuit.com/>

¹⁹ Employment Tribunals Case No. 2202550/2015, §89

²⁰ Add national minimum wage regulations: the work of Uber drivers falls under the category “time work” (as opposed to salaried hours work, output work or unmeasured work) only in cases when the driver is carrying a passenger but not otherwise; workers who do “time work” are entitled under the contract to be paid: a) by reference to the time worked by the worker; b) by reference to a measure of output in a period of time where the worker is required to work for the whole of that period; c) for work that would fall within sub-paragraph (b) but for the worker having an entitlement to be paid by reference to the period of time alone when the output does not exceed a particular level. Uber drivers therefore perform “unmeasured work” in cases where they do not carry passengers.

²¹ The Guardian. 2016b. “Uber ordered to pay €1.2m to French taxi union by Paris court.” Accessed on November 16, 2016. <https://www.theguardian.com/technology/2016/jan/27/uber-ordered-pay-france-national-union-taxis-paris-court>

²² The Guardian. 2016c. “France hit by the day of protest as security forces fire teargas at taxi strike.”

Accessed on November 16, 2016. <https://www.theguardian.com/world/2016/jan/26/french-taxi-drivers-block-paris-roads-in-uber-protest>

²³ <http://en.pascalsmet.be/articles/mobility/taxi-en>

²⁴ The New York Times. 2014. “German Court Lifts Ban on Uber Ride Service.” Accessed on November 16, 2016. http://www.nytimes.com/2014/09/17/business/international/uber-ban-in-germany-is-lifted-by-court.html?_r=1.

²⁵ P. Charhon, D. Murphy (2016) *The Future of Work in the Media, Arts & Entertainment Sector: Meeting the Challenge of Atypical Working*, prepared by International Federation of Actors (FIA), the International Federation of Musicians (FIM), UNI MEI (Global Union for the Media and Entertainment Sector) and the European Federation of Journalists (EFJ), P 38.

²⁶ Idem, P. 37.

²⁷ Idem, P. 39.

²⁸ Idem, P. 39.

²⁹ Dutch Federation of Trade Unions – Artists, media, information and gaming sector

³⁰ Idem, P. 42.

³¹ Idem, P. 42.

³² Saving Europe: for Youth and Progress, Resolution adopted by the PES Council in Prague on 3 December 2016

³³ As outlined by the Vienna Chamber of Labour. 2016. “Digital Change – Fair and Just.”

Page 16–19

Digitalisation, platform economies and impact on social protection and labour law standards

³⁴ Federal Ministry of Labour and Social Affairs Germany, Green Paper on “Work 4.0”, 2015, 16

³⁵ European Commission. 2016b. “Digital Skills & Jobs.” Accessed on November 16, 2016. <https://ec.europa.eu/digital-single-market/en/skills-jobs>.

³⁶ Ibid.

³⁷ Multiple resources are available on the job destruction and job creation that the digital economy, in combination with automation, could generate. See for example Bruno Palier, *Contribution au débat « Nouvelles formes du travail et de la protection des actifs »*, april 2016, Paris, Christophe Degryse, *Digitalisation of the economy and its impact on labour markets*, working paper 2016/02, ETUI, p:33, or *Re-imagining work, Green paper Work 4.0*, Federal ministry of Labour and Social Affairs, April 2015, Berlin, Germany.

³⁸ Huws, Ursula. 2014. *Labor in the Digital Economy: The Cybertariat Comes of Age*. NYU Press.

³⁹ European Commission. 2011 *3digital Agenda: ICT for jobs* accessed on November 16, 2016

⁴⁰ ETUC. 2016. Resolution on digitalisation “towards fair digital work.” *Executive Communication June 16*.

⁴¹ PES Programme for Progressive Reforms, November 2015

⁴² Decent work is broadly described as “having a secure and adequate income, having a permanent position, developing social connections and being able to make use of and develop their own skills in their work,” in Federal Ministry of Labour and Social Affairs Germany. 2015. *Green Paper Work 4.0*.

⁴³ The Future Of Work In The Transatlantic Alliance by Steven Hill on 11 February 2016, Social Europe

Page 24

Preparing professional transitions and the diversification of professional paths

⁴⁴ Literally “individual activity account”.

Page 26-27

Guarantee in work protection

⁴⁵ Or, in other words, a right for employees to be uncontactable and unresponsive. Cf ‘Good work’ and good services in the digital world, Resolution of the 4th Federal Congress of the united Services Union ver. di, September 2015, Germany. Such right was introduced in the article 55 of the French labour law of 8 august 2016.

⁴⁶ R198 – Employment Relationship Recommendation, 2006

(No. 198), Recommendation concerning the employment relationship Adoption: Geneva, 95th ILC session (15 Jun 2006)

⁴⁷ This is the core point of the current legal debate in courts on both side of the Atlantic Ocean concerning UBER drivers.

⁴⁸ COM(2016) 824 final 2016/0403 (COD) Proposal for a regulation of the European Parliament and of the Council R introducing a European services e-card and related administrative facilities

Page 30

A real safty net for unemployment periods

⁴⁹ This is the objective put forward by the French government for the “compte personnel d’activité”, Cf. www.gouvernement.fr/compte-personnel-activite-cpa

⁵⁰ A universal unconditional basic income is a much debated topic, with fervent supporters and strong critics. Some points of the discussion concern its complementarity vs replacement of social benefits, the spreading of public resources vs its concentration on the most in need, its level and its sustainability.

⁵¹ As suggested by Henning Meyer in *The digital revolution and inequality, how should governments respond?* in *The Technological Revolution*, Journal for a Progressive Economy #7, coll. January 2016

⁵² Statut d’intermittence: French and Belgian status for workers in casual employment of the entertainment sector, which internalises the cost of structural unemployment and opens a right for compensation payments during a set period once a certain threshold of hours worked.

Page 33

Integrating all forms of work in the financing of social protection

⁵³ *The sharing economy: make it sustainable*, Damien Demailly, Anne Sophie Novel, Studies N°03/2014 IDDRI Paris, France

⁵⁴ *The Sharing Economy That Is Not: Shaping Employment In Platform Capitalism* by Jan Drahokoupil and Brian Fabo on 26 July 2016, Social Europe.

⁵⁵ For more details on robots and artificial intelligence, cf. European Parliament resolution of 16 February 2017 with recommendations to the Commission on Civil Law Rules on Robotics (2015/2103(INL))

⁵⁶ For instance, AirBnB collects local taxes on stays in several European cities, after agreements found with municipalities.

Page 35

Conclusion

⁵⁷ As described by the ETUI in its Publication alert for *Digitalisation of the economy and its impact on labour markets*, Christophe Degryse, working paper 2016/02, ETUI, p:33

⁵⁸ Jean-Claude Juncker, President of the European Commission, State of the Union Speech, European Parliament Strasbourg, 9 September 2015.

Page 38–39

Glossary

¹ Oxford Dictionaries.2017. *Definition Algorithm*. Accessed on August 8, 2017

² Eurofound.(2017). *Fraudulent contracting of work: Bogus self-employment (Czech Republic, Spain and UK)*, Eurofound, Dublin.

³ Huws, Ursula. 2014. *Labor in the Digital Economy: The Cybertariat Comes of Age*. NYU Press.

⁴ Valencuc, Gérard, and Patricia Vendramin. 2016. *Work in the digital economy: sorting the old from the new*. Brussels: ETUI, 7

⁵ DAF/COMP(2012)22.2012. *The Digital Economy*. OECD

⁶ DSTI/ICCP/IIS(2015)13/FINAL. *New Forms of Work in the Digital Economy*. OECD



If you have any questions or comments about our work on digitalisation, please contact Antoine Mertzseisen (Antoine.Mertzseisen@pes.eu, +32 254 89096).

Follow us on www.facebook.com/pes.pse
and www.twitter.com/pes_pse.

Party of European Socialists (PES)

10 – 12 Rue Guimard
1040 Brussels
Belgium

T +32 2 548 90 80
info@pes.eu
AISBL-BBCE-N 0897.208-032

This publication received financial support of the European Parliament. Sole liability rests with the author and the European Parliament is not responsible for any use that may be made of the information contained therein. This Brochure was printed on a recycled paper with environmental safe water based inks.

September 2017