

Don't GIG Up, Never!

Country update – GERMANY

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dontgigup.eu



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INTRODUCTION

This report is part of a series of follow-up studies to the State of the Art report¹, published in January 2019 under the project 'Don't GIG Up! Extending social protection to GIG workers in Europe' (VS/2018/0018), and reviewing debate, studies, and policies arising on platform work in the following countries: France, Germany, Italy, Poland, and Spain².

As part of the 'Don't GIG Up, Never!' project (VS/2021/0204), the report updates country level information up to February 2022, illustrating contextual information and recent developments around platform work. More in detail, the country update describes political, social and academic debate on platform work, results of recent research studies, relevant legislation and policy reforms, and social partners' responses to the platform work. This was done using a questionnaire and instructions common to the different countries covered by the partnership.

To support the comparison of findings across countries, the report refers to the 'Don't GIG up!' classification of labour platforms presented in Table 1.

Table 1. Classification of labour platforms adopted in the project 'Don't GIG up!'

Platforms involving passenger transport services (Uber, Lift...);	TYPE 1
Platforms involving goods delivery services (Deliveroo, Foodora...);	TYPE 2
Platforms involving 'traditional gigs', like gardening, cleaning activities (Task Rabbit, Helpling...) up to skilled services (marketing, advertising, translating), possibly also by means of auctions (Fiverr, Upwork...);	TYPE 3
Platforms externalizing micro-tasks, often performed on web, to a 'crowd' of workers (crowd-work platform like Amazon Mechanical Turk).	TYPE 4

1 The report is available under the following link: <http://www.dontgigup.eu/resources/>

2 The web-site www.dontgigup.eu hosts also two country reports addressing Sweden and Estonia respectively, and covering a larger time span for them were not included in the State of the Art report.

PUBLIC AND ACADEMIC DEBATE ON PLATFORM WORK

The political and social debate about platforms and platform work in Germany has continued in recent years. However, in the Covid 19 pandemic, other issues and problems of the world of work have come to the fore in the meantime, which resulted from the pandemic, its health consequences and the political measures of contact restrictions, especially during the various shutdowns. These included four issues in particular: Short-time work, its extension to other groups of employees such as temporary workers, and the increase in benefits; the social esteem and pay of care workers in the health sector in the face of increasing staff shortages in hospitals and elderly care; the poor working conditions in slaughterhouses, which were identified several times as sources of infection, especially during the first phase of the pandemic; and, last but not least, the home office, the binding nature of its use for employees, and the burden on families with children in the home office, especially during periods of school shutdowns. Self-employed work was also a focus of debate but was related less to platform work and more to the traditional work of self-employed artists or other self-employed workers with audience contact who could no longer pursue their work because of the pandemic. Overall, during the pandemic, digitization was seen as an opportunity for contact avoidance and more time autonomy, as in the home office, but also as a field of necessary reforms, especially with regard to deficits in the collection and reliability of health data in political pandemic management. At the same time, however, there is also evidence that parts of the platform economy were temporarily able to strengthen their business in the Corona crisis. According to Herrmann (2020), this was especially true for IT consulting and delivery services, whereas demand (due to lock-downs and contact restrictions) for platform-mediated domestic services and ride-hailing services declined.

Despite this overlay of other developments and problems, however, the topic of crowdworking remained on the agenda. An example of this is the Equality Report for the Federal Ministry of Family Affairs of 2021, prepared by scientific experts, which addresses several recommendations for action to the federal government in a section on platform work (BFJSJ, 2021). These include:

- Establish low-threshold procedures for determining the legal status of platform workers;
- Develop social protection for self-employed platform workers comparable to that of dependent employees in order to prevent undercutting competition;
- Introduce protections against algorithmic discrimination with respect to employee monitoring, job assignment, or evaluation processes;
- Develop transferable reputation systems that platform workers can use to prove their competencies.

However, the central political actor for work in the platform economy was and is the Federal Ministry of Labour and Social Affairs (BMAS). Following the publication of the “White Paper on Working 4.0” in 2016 and after the 2018 federal elections, the ministry had established the “Digital Labour Society Think Tank” (*Denkfabrik Digitale Arbeitsgesellschaft*). As a mixture of think tank and future lab, the think tank was to identify new developments and fields of action around the topic of digitization for the BMAS and develop approaches to solutions, based on diverse discussion formats with stakeholders from science, business and society (Denkfabrik Digitale Arbeitsgesellschaft, 2022). The topic of labour platforms is one of the focal points of the think tank and was the focus of several events and workshops with platform participants, platform operators, trade unions and representatives from science. These included:

- The workshop ‘Work Organization in Transition’ as part of the future dialogue ‘New Work, New Security’ in December 2018, in which scientists, representatives from associations and trade unions, as well as employees, the self-employed and works councils discussed issues of legal occupational safety and health.
- Hearings in 2019 with platform employees and platform operators on the topics of data transparency, the rights and obligations of platform operators, and the distinction between (solo) self-employment and employee status;
- Two four-day ‘Future Labs’ in May 2019 with two separate groups, each consisting of platform workers from the field of on-location and online work, platform operators, representatives of trade unions as well as academics, in which it was discussed how the needs and demands of platform workers can be reconciled with the interests of platform companies and to what extent legislators can or should take action in this regard.
- Two discussion panels at the Digital Summits 2019 and 2020 with Federal Minister of Labour Hubertus Heil, representatives from the field, and the social partners.

The Digital Summits are the top-level meeting of the various thematic platforms at which business and employers’ associations, company representatives, trade unions, academics and politicians have been working together on various topics relating to digitalization since 2015. Based on these discussion rounds, a key issues paper entitled ‘Fair Work in the Platform Economy’, was finally published by the BMAS in November 2020, defining the possible contours of a new legal framework for platform work. Details of this paper are described in section 3. Following this, a virtual ‘Platform Summit’ was held in

April 2021 by the think tank and the BMAS on the topic of 'Fair Platforms' with platform providers, employees and trade unions.

The 'Council of the Working World' (Rat der Arbeitswelt, 2021), established by the BMAS in 2020, also dealt with the topic of platform work. In its first annual report 2021, the Council particularly addressed the legal classification of platform workers as self-employed and the associated challenges. The Council recommended to take the first regulatory steps on a national level. However, due to the often cross-border business models of platforms, regulation at international, especially European, level was recommended as well.

Trade union initiatives dealing with the topic of platform work also continued. The self-employment counselling at Verdi continues to take place also and explicitly for platform workers. Advice is also offered through IG Metall's 'Fair Crowd Work' initiative; in addition, the website continues to publish updated assessments of platforms by workers. Moreover, the ombudsman's office for individual complaints by platform workers established in 2017 between the signatory companies of the Code of Conduct and IG Metall, whose secretariat is located at the union's executive board in Frankfurt, has established itself as an important working body. Since then, the ombudsman's office has handled a total of just over 40 complaint cases by the end of 2020. Most of these cases have been settled amicably. In other cases, the ombudsman's office made decisions, provided advice or was not responsible for the reported circumstances. It also defined more fundamental positions on individual issues, thus establishing itself as an authority on private standard-setting for platform work. This included e.g. the question of whether criticism of a platform voiced on Internet forums can entitle the user to terminate the contractual relationship. In this regard, the ombudsman's office took the view that forums should provide space for open and critical discourse, which is also allowed to be uncomfortable. 'However, a platform can require a contractual partner to ensure that the tone on its forum is factual and based on respect in the interest of the integrity of all those who visit and use its forum, as well as its customers and the platform employees. This excludes criticism that violates the rights of honour and personality, the non-anonymous publication of correspondence, and the public disclosure of trade secrets. Violations of this can, if necessary, after a warning, justify termination of the contractual relationship. The circumstances of the individual case must always be taken into account.'³ An extension of the IG Metall's activities in the platform economy is its participation in the protest action of content creators on the social media platform YouTube, which became known as the 'YouTubers Union' in 2018 (Hoose and Haipeter, 2021, pp. 169-170.). This initiative was initially launched by some YouTubers and was directed against the unilateral and unannounced change of platform rules and algorithms to the detriment of content creators. Since the middle of the year 2019, the initiative has been supported by IG Metall, now within the framework of the newly founded association FairTube e.V. at the end of 2020⁴. Initiatives like this broaden the perspective on platform work to new labour markets that have so far been largely unregulated.

³ See: <https://ombudsstelle.crowdwork-igmetall.de/de.html>.

⁴ See: <https://fairtube.info/>

The academic discourse on platforms in Germany – in addition to recent findings on the trends in platform work, which will be discussed in the next section – has revolved in recent years around the in-depth analysis of platforms, the structures and modes of operation of the platform economy, and their social impact. In this context, the creation of proprietary markets by Internet corporations has been identified as a central feature of the Internet economy (Staab, 2019). According to this view, Internet corporations privatize what are actually scarce goods of the Internet on the basis of patents and network effects, and in this way reap dividends as ‘first movers’ based on integrating as many customers as possible into their own product architecture of hardware and software. In this view, labour platforms radicalize operational domination and control through algorithmic management. Another aspect emphasized in the discussion concerns the role of platforms as agents of regulation and structuring. This applies, on the one hand, to the private-sector organization and regulation of the markets in which platforms are active, which they coordinate and whose competitive conditions they set; and, on the other hand, to the structuring of users’ social behaviour on the Internet. In both roles, platforms thus assume quasi-sovereign tasks that are, however, removed from democratic control (Dolata, 2020). Kirchner (2021) adds that platforms define the interfaces to users and thereby create and maintain specific social orders - and with them domination. In addition to these general characteristics of platforms, however, according to Thelen (2018), the role of social institutions must be considered, as illustrated by the example of Uber’s driving services, whose market entry in Germany was severely limited by the resistance of taxi associations and various rulings by German courts. Compared to the USA, Germany is characterized by stronger trade associations, a more active antitrust regime and a lower level of financialization - and thus less venture capital for financing platforms (Funke and Picot, 2021).

A second focus of research in the country are on goods delivery platforms (type 2 of the adopted classification), which became the centre of social conflicts over working conditions and the establishment of interest representation on platforms. Here the findings addressing Germany outlined in the Don’t GIG up! State of the Art report were deepened and updated in further work. An online survey of 246 riders revealed that 61% of them have contact with other riders, that 70% are only inadequately informed about innovations in work processes by the platforms, that 63% of riders feel at the mercy of digital technology, that around 60% do not identify with their work, and that their income is only good enough to live on for just under 30% of respondents (Heiland, 2019). However, at the time of the conflicts, there were clear differences in employment relationships between the two dominant platforms at the time, Foodora, which hired employees on a temporary basis, and Deliveroo, which switched from temporary employment to self-employment in the wake of the conflicts in order to weaken employee organizing and thereby dissolve the works councils that had been established (Heiland and Brinkmann, 2020; Haipeter 2019). Following Deliveroo’s withdrawal from the German market in 2019, there the major player in the German market is the Lieferando brand, which belongs to the Dutch company Just Eat Takeaway.com. Here, employees are hired on a temporary basis or as marginal part-time workers. In 2020, the workers managed to establish works councils in this company (Jesnes et al., 2021).

FEATURES AND TRENDS

There is no official directory of work platforms for Germany. So far, it has not been possible to register the platforms completely. For this reason, the registration of platforms was listed as a separate regulatory point in the BMAS's key issues paper on fair platform work and was then also incorporated into the proposal for the EU directive on improving working conditions on platforms. A study by Groen et al. (2021) offers a first approximation of the number of active platforms. According to this study, 217 labour platforms are active in Germany. 50 of these platforms have their EU headquarters in Germany. Compared with other platforms from European countries, these have the highest revenue of around one billion euros.

In the last years, several new surveys on the volume and characteristics of platform work in Germany have been published. These surveys differ considerably in their results (table 1). Two German surveys have been commissioned by the BMAS following the White Paper 'Working 4.0'. These include a representative telephone survey of German-speaking adults with 10,000 participants (Bonin and Rinne, 2017). According to this, at the time of the survey, only just under 1% of respondents were performing platform-mediated activities for pay, whether in online work (0.3%) or in the form of on location services (0.6%). Here, the proportion of men is larger than that of women, the concentration is higher among younger age cohorts and the level of education is above average. Only one in three of the platform workers regularly earns money on platforms, and the share of the activity as a main source of income is similarly low.

Also commissioned by the BMAS, a 'Crowdworking Monitor' was conducted based on an online survey with nearly 500,000 responses (Serfling, 2018; 2019). According to this, the prevalence of platform work is 6.9%, with 2.3% of respondents performing paid platform work at the time of the survey. This survey also shows a clear overrepresentation of male, younger and better qualified employees. For 28%, platform work is the central source of income, and 41% work less than 10 hours per week. Significantly higher values of the prevalence of platform work are shown by the COLLEEM survey commissioned by the EU Commission, which was conducted in two waves as an internet survey (Pe-

sole et al., 2018; Urzi Brancati et al., 2020). Like the cited German surveys, these surveys arose from a political interest in obtaining more information about platform work in order to better assess potential regulatory needs. According to the COLLEEM surveys, the share of platform workers on the working age population in Germany was 11.8% in 2017 and 12.3% in 2018 (Urzi Brancati et al., 2020, p. 16 and Pesole et al. 2018, pp. 14-20 for more details), and the shares of platform workers who regularly accept work through platforms are about half as large in each case. These surveys also confirm the finding that platform workers are in the majority young and male and have an above-average proportion of higher qualifications.

Table 1: Size and Characteristics of Platform Work (based on Hünefeld et al., 2021)

Survey	Share of Platform Workers	Share of Platform Workers with Regular Activities / Income
Bonin/Rinne 2017	0.85% ⁵	0.3% ⁶
Serfling 2019	6.9% ⁷	2.3% ⁸
Pesole et al. 2018	11.8% ⁹	6.6% ¹⁰
Urzi Brancati 2020	12,3% ⁸	5.7% ¹¹

Note: The cited data refer to different studies with different methodological approaches. Share of Platform Workers and regular Activities can mean different things according to the surveys: the share of workers who are active at the moment of the survey, who work at least weekly, who earn a certain part of their income on platforms or who just declare that they work for money on platforms more or less regularly.

The sometimes large differences in the data on the prevalence of platform work between the surveys can be explained by their different methodological approaches. Although the three online surveys are cheaper and less complicated to conduct than the telephone survey of the labour force by Bonin and Rinne, they have the disadvantage of a bias in favour of persons with Internet access and Internet affinity and thus an overestimation of platform work. It is true that this bias can be reduced by weighting, which was probably used to

5 Share of the adult German-speaking population who completed work orders for money online or in the real world procured via the Internet or an app (Bonin and Rinne, 2017, p. 11)

6 Share of the adult German-speaking population working in the crowdworking sector and earning money from it on a regular basis (Bonin and Rinne, 2017, p. 14)

7 Share of survey respondents that are actively completing paid, short-term tasks that are arranged via internet platforms or smartphone apps or have done so in the past (Serfling, 2019, 12)

8 Share of survey respondents who are considered as active crowdworkers and whose goal is to generate income with it (Serfling, 2019, 12)

9 Share of people “who have ever gained income from providing services via online platforms, where the match between provider and client is made digitally, payment is conducted digitally via the platform, and work is performed either (location-independent) web-based or on-location” (Urzi Brancati, 2020, p. 14)

10 People who do ‘significant platform work’: more than once a month and more than 10 hours a week (Pesole et al., 2018, p. 18)

11 People who are classified as main or secondary platformworkers: Meaning those who do platform work at least monthly and spend at least 10 hours a week and get at least 25% of their income via platforms (Urzi Brancati, 2020, pp. 15-16)

a greater extent in Serfling's study. However, there is the additional problem that respondents to online surveys are mostly recruited through commercial polling panels, which offer compensation on a per-task basis and thus represent a form of platform work that may only be performed by platform workers - leading to a bias in favour of platform workers working online (Piasna, 2021). At the same time, telephone surveys might include a bias in favour of less on-line-oriented persons. These methodological problems to measure platform work have initiated an ongoing debate about how to empirically study platform work (Pesole et al., 2019; Pongratz, 2019).

The results also show clear differences with regard to whether platform work is performed primarily online or as a service on location. According to Bonin and Rinne (2017), the share of platform work performed on location is more than twice as high as the share of online work. According to Serfling (2019), the share of on location work is only slightly higher than online work; however, according to this study, almost 28% of activities also show a combination of both forms. According to the COLLEEM surveys, on the other hand, the share of digital work in Germany is significantly larger than the share of on location activities, although here too the share of activities combining both forms counts for more than a quarter (Pesole et al., 2018). In a survey of more than 700 platform workers, Baethge et al. (2019) queried individual services and benefits. According to this, activities of renting (which are outside the scope of our project) and delivery services have the highest shares with a combined 50%. Adding to this the 11% share for passenger transportation and cleaning services, the share of on-location based activities¹² is over 60%. The surveys also contain findings on other topics related to the work of platform workers:

Working hours: according to Serfling (2019), over 40% of platform workers work less than 10 hours per week and over 60% less than 30 hours per week on platforms; the share of full-time platform workers is just under 40%. However, in the platform worker survey by Baethge et al. (2019), only 20% of online workers and 8% of on location workers spend more than ten hours per week on platform work. Accordingly, the average working time for platform work is 7.5 hours for online and 4.6 hours for on location work.

Wages: According to Bonin and Rinne (2017), the share of platform workers who earn their main income from platform work is around 50% for on location work, and significantly lower for online workers. The survey by Baethge et al. (2019) shows much lower values; according to this, only 19% of online and 14% of on location workers earn more than € 800 per month with platform work; a total of 56% use platforms to earn up to an additional € 400 per month. The study by Serfling (2019) also confirms the dominance of additional earnings; according to this study, platform work is the main source of income for only 26% of respondents. At the same time, according to Baethge et al. (2019), there is a positive correlation between the amount of the main income and the amount of income from platform work.

¹² On-location based activities match with types 1 and 2 of our classification, and with some activities falling under type 3 (i.e. all those who are performed 'on-location' and not 'online', like cleaning). Instead, online based activities cover type 4 and some activities falling under type 3 (i.e. all those who are performed 'online', like translations).

Employment status: From the observations on working hours and income opportunities, most studies conclude that platform work in Germany is predominantly part-time and marginal employment that complements other forms of income (Pongratz, 2019). German specific figures on employment status can only be found in the study by Serfling (2019): according to this, the share of self-employed among platform workers is about 28%, just under 25% define themselves as full-time employees and 5% as part-time employees. The rest of the workforce consists of unemployed (12.6%), retired (18.4%) and students (7%).

Tasks: According to Bonin and Rinne (2017), 56% of platform workers perform simple tasks, 28% perform tasks that require expertise, and 16% of workers perform both. Among the tasks, according to Serfling (2018), consulting activities are the most prevalent with a share of just under 22%, followed by typing and translating (just under 13%), manual tasks (just under 11%), programming (8%), product and software testing (6.9%), and design work (just over 6%). This weighting is different in Baethge et al. (2019), where rental (27%) and delivery services (23%) dominate, followed by testing and survey participation (19%), IT work (16%), text work (12%), data work (10%), and passenger transportation and design work (7% each).

Motivation: According to Baethge et al. (2019), what platform workers value most about platform work is the possibility of additional employment, time flexibility, independence, and quick payment. The most important disadvantages mentioned are the lack of social security, the unpaid workload, e.g. in searching for jobs, the competition with other workers, unclear regulations in case of disputes with the employer, and the low protection against unfair treatment by the employer. A similar pattern of motives emerges from the findings of Serfling (2018). According to this study, platform work is used because it is quickly arranged (16.6%), because no other work opportunities are available (16.3%), because it can be done on the side (15%), or because the working hours are flexible (9.2%). 31% of the platform workers in this survey were rather (31%) or very (20.7%) satisfied with the platform work, in contrast, 10.7% were less satisfied and 18.4% were not at all satisfied.

Findings on platforms are rare. The international project Fairwork evaluated ten platforms in Germany in 2020 (Fairwork, 2021). The findings were mixed:

- All platforms were able to demonstrate paying at least the legal minimum wage;
- All platforms presented terms and conditions in an easily accessible and transparent manner;
- Seven platforms provided support for fair working conditions in the form of health and safety protection policies;
- Only half of the platforms had orderly procedures for dealing with workers (and only one platform for preventing discrimination against people from disadvantaged backgrounds);
- Only two platforms complied with the principle of fair codetermination, and no platform provided for a collective worker voice or had evidence to support the formation of a collective worker body.

POLICY, LEGAL AND CASE LAW DEVELOPMENTS

There are still no new regulations on platform work established in Germany. However, policymakers have continued to pursue some of the processes initiated in the White Paper 'Working 4.0' of the BMAS. These include improving the data on the spread and forms of platform work as well as setting up the 'think tank digital working society' described above, which is intended to intensify the social and political dialogue on platform work. A key outcome of this dialog is the BMAS's 'Key Points for Fair Work in the Platform Economy', which the Ministry of Labour published at the end of 2020 and which is intended to set the framework for further political initiatives and legal regulations (BMAS, 2020). Specifically, the BMAS paper identifies several areas of regulation that should 'ensure fair work in the platform economy' and establish a 'level-playing-field':

- Include solo self-employed platform workers in the statutory pension scheme and involve platforms in paying contributions;
- Examine whether and how accident insurance coverage can be improved;
- Open up the possibility for solo self-employed platform workers to organize themselves and jointly negotiate basic conditions of their activity with the platforms;
- Introduce a shifting of evidence in lawsuits to clarify employee status, thus lowering the inhibition threshold for platform workers to assert their rights in court;
- Allow platform workers to take their ratings to another platform, thus limiting dependence on individual platforms;
- Discourage certain contractual practices by platforms, for example by setting minimum notice periods;
- Ensure that general terms and conditions that are unilaterally detrimental to platform operators can be reviewed in court in a simpler and less complicated manner;
- Establish transparency and reporting obligations for all platform operators in order to improve the data situation on the platform economy.

These points are not intended to initiate national regulation of platform work directly. Instead, the BMAS aims to incorporate the regulatory requirements into the planned EU directive on improving working conditions in platform work¹³ (EU, 2021). Central points such as the compulsory registration of platforms, the shifting of evidence of employee status, the transparency of algorithms, as well as the information and consultation of workers and their interest groups or the inclusion in social security have found their way into it. It remains to be seen in what form the directive will be implemented and what implementation obligations this will entail for German legislation.

Two important decisions by the Federal Labour Court (BAG) on platform work have challenged the notion that platform work is self-employment. The first was a ruling in 2020 on the lawsuit of a platform worker who had used an app to carry out orders to inspect goods. The worker had regularly checked the presentation of goods in stores and petrol stations for a company since 2017, using photos and questions to promote products. These were microjobs offered through a platform on a 'basic agreement' and company's terms and conditions. Over an 11-month period, the claimant had completed nearly 3,000 of these jobs before the client terminated the relationship with an email in 2018. The worker filed a lawsuit against his termination, because from his point of view he was in an employment relationship with the client. The action was rejected by the lower courts on the grounds that the basic agreement did not meet the requirements of an employment contract because it did not contain any obligation to perform the services or accept the order. The BAG, on the other hand, ruled in the last instance that although this obligation did not exist, the worker was induced by the platform's evaluation system to take on the control activities in order to be able to earn a higher hourly wage in this way¹⁴. From the point of view of the BAG, he is thus to be classified as an employee who has performed work that is bound by instructions and determined by others in personal dependence. However, in the view of the court, the termination by e-mail was nevertheless also lawful as a termination of the employment relationship. The decision represents a break with previous legal interpretations because this was the first time that the highest labour court assessed independent platform work as an employment relationship. The decisive factor is the specificity of work and the implementation of the employment relationship. Therefore, according to this ruling, blanket classifications of the employment relationship from job types are no longer possible but must be legally examined case by case (BAG, 2020).

The second decision of the BAG¹⁵ was about a complaint of a delivery service rider and argued that platforms must provide the work equipment (and here in particular smartphones and bicycles) to the platform workers. So far, the platform obliged the riders to use private equipment. On the lower court level¹⁶, the complaint was upheld, and the appeal of the platform against the judge-

13 Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on improving working conditions in platform work, COM(2021) 762 final.

14 BAG decision 9 AZR 102/20, available at: <https://www.bundesarbeitsgericht.de/entscheidungen/9-azr-102-20/>.

15 BAG decision 5 AZR 334/21, available at: <https://www.bundesarbeitsgericht.de/sitzungsergebnis/5-azr-334-21/>.

16 LAG Hessen, the labour court of the federal state Hessen), 12 March 2021 - 14 Sa 306/20.

ment of the LAG Hessen was rejected by the BAG at the end of 2021. In doing this the BAG ruled that the use of a personal bicycle and mobile phone provided for by the platform's general terms and conditions unreasonably disadvantages the riders. According to the BAG decision, the plaintiff rider can demand from the platform that it provides him with the work equipment necessary for the activity (a suitable roadworthy bicycle and a suitable mobile phone).

Apart from these case decisions, there are still no legal limitations for labour platforms in Germany to operate a model of "independent contracting" (Rahmann and Thelen, 2019) based on solo self-employed workers. Reclassifications of self-employment have not been introduced. The decisive question in a legal perspective for the distinction between dependent employment and solo self-employment is whether workers are dependent on a single employer economically or in terms of authority. Following the jurisdiction of the BAG, the state of dependency can only be evaluated case by case. Solo self-employed workers still are not entitled to be included in the system of compulsory social security contributions, and there are no functional equivalents for these groups of workers like joint responsibilities between clients and contractors.

However, the situation of platform work in Germany is different from more liberal market economies like the USA due to differences in the institutional contexts of platform activities like welfare regimes and labour market regulations. As the US is the home country of labour platforms, the comparison between the two countries has become quite popular in literature. In general, Germany is characterized by stronger trade associations, a more active antitrust regime and a lower level of financialization – and thus less venture capital for financing platforms (Funke and Picot, 2021), factors that might restrict market access and 'the winner takes it all'- strategies of platforms. An important contribution to illustrate these differences is Thelen's (2018) analysis of Uber and the different conflicts and regulations which have been created in different institutional contexts. According to Thelen, Uber could expand in the US – despite strong former regulations of the local taxi markets – because of regulatory fragmentations between regions and cities, the lack of national associations, and platform-consumer coalitions which influenced the public and political opinion by framing the new transportation services as innovative and efficient. In Germany, on the other hand, the taxi associations have strong umbrella representations on national level which reacted quickly on the market entry of Uber and managed to establish alliances with transportation authorities and politicians, framing the preservation of regulated markets as a matter of public interest.

But also the welfare regimes play a crucial role. Although there have been some cutbacks introduced in the German welfare system in the first decade of the 2000s in terms of claims on pensions or unemployment insurance, there are still huge differences compared to the US which directly affect the situation of platform workers (Krzywdzinski and Gerber, 2020). Higher unemployment protection and parental leave benefits reduce the attractiveness of platform work for self-employed and parents in Germany; and lower legal protection against dismissals blurs the boundaries between dependent employment and self-employment and increases the acceptance of platform work in the US. Krzywdzinski and Gerber (2020) state that these reasons explain the fact that platform work is much more often a second income in Germany than in

the US, where it is more likely to be a first income. This fact might also explain the reluctance of the German government to regulate platform work, whereas in the US conflicts about platform work as a main income have led to a large wave of lawsuits in the absence of political regulation.

SOCIAL PARTNERS' ACTIVITIES AND GRASSROOT CAMPAIGNS

The German industrial trade unions under the umbrella of the DGB have continued their activities in the area of the platform economy since 2019. The larger projects in this area were already described in the 2019 State of the Art Report. As mentioned above, in these projects, as in the case of FairTube, the dialogue with bottom-up federations of platform workers was included. The situation is similar regarding the dialogue of the NGG with riders on food delivery platforms such as Deliveroo and Lieferando. The initiative 'Delivering at the limits', which was developed by the riders at Deliveroo, was adopted by the trade union NGG as an official trade union campaign. The NGG employed one of the former activists of Deliveroo to manage the campaign.

Although the labour disputes in gig economy in Germany mostly have a local focus and are initiated by local platform workers' initiatives, some of newer disputes about fair working conditions received nationwide public attention, most important among them the labour conflict at the platform 'Gorillas'. Gorillas is a platform company for grocery delivery services, founded in May 2020. The platform advertises that it delivers supermarket items within 10 minutes of the order. The COVID pandemic has since ensured an extraordinary increase in the importance of such services (Butollo et al., 2021, p. 8). Like other start-up-companies, the platform relies on rapid growth with the help of venture capital. One of the investors was Delivery Hero, the owner of the former delivery service Foodora, which thus became active again (at least indirectly) in the German platform market (Klug, 2022). Since the last year, the poor working conditions at the platform became an issue of public attention. After a rider was unlawfully dismissed from the point of view of other platform workers, a first (wildcat) strike took place (Ewen et al., 2022). The delivery warehouses of the platform were blocked in Berlin. The strike received a lot of media attention, especially because Gorillas advertised its services very aggressively during the pandemic. In the further development of the conflict the platform company has dismissed riders who were involved in the strike. This was contrary to former assurances of the company.

During the conflict some parallels to interest representation initiatives at oth-

er platforms¹⁷ become apparent. The riders on the platform initially organised their protest in a bottom-up way by joining together to form the 'Gorillas Workers Collective' (GWC). To do so, the riders' exchange via social media services – especially Twitter and Telegram) – was important. With spontaneous and provocative actions, the GWC succeeded in gaining a lot of attention in the media in order to lend weight to its own demands to improve working conditions. During the ongoing labour dispute, the Federal Minister of Labour met with the strikers (Dettmer, 2021). In the course of the dispute with the platform, the riders and the GWC were then supported by the anarcho-syndicalist federation of labour unions FAU and later also by NGG and Ver.di. As Ewen et. al. (2022) state in their study of the industrial action at Gorillas, the drivers' unions show an overall critical attitude towards traditional trade unions and also attest certain successes to more fluid and situational protest actions in the gig-economy. In the meantime, an attempt has been made – with the support of Ver.di – to install a works council at Gorillas (Gross, 2021). The platform tried to prevent the formation of a works council, using legal and other union busting methods. This was probably one of the reasons for the relocation of the headquarters from Berlin to the Netherlands (Holst et al., 2022).

¹⁷ Like the conflicts at Delivery Hero and at Deliveroo mentioned in the Don't GIG up! State of the Art report, p. 17.

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