

The changing environment of the self-employed

28 January 2020

REPORT

On 28 January 2020, Eurofound, ACCA and SMEUnited organised a joint conference on ‘**The changing environment of the self-employed**’, held under the auspices of the **Croatian Presidency 2020**.



Juan Menéndez-Valdés, Executive Director of Eurofound, opened the event and MEP **Dragos Pîslaru** provided a keynote speech. The first Panel on **Taxation and Social aspects**, moderated by **Jason Piper**, Head of Tax and Business law, ACCA, welcomed **Max Uebe**, Head of Unit, Employment Strategy, DG Employment, Social Affairs and Inclusion, European Commission, **Marlene Stoel**, Attaché for Social Affairs and Employment, Dutch Permanent Representation to the EU, **Karolien Lenaerts**, Research Manager, KU Leuven, **Mathijn Wilkens**, Research Officer, Working Life Unit, Eurofound, and **Gerhard Huemer**, Director, Economic Affairs and Fiscal Policy, SMEUnited. The second Panel on **Company law, digitalisation and new business models**, moderated by **Salla Saastamoinen**, Director, Civil and Commercial Justice, DG JUST, European Commission, included **Stijn Broecke**, Head of Future of Work team, OECD, **Konstantina Strouvali**, Deputy Head of Unit, European Competition Network and Private Enforcement, DG COMP, European Commission, **Willem-Pieter de Groen**, Research Fellow and Head of Financial Markets and Institutions Unit, CEPS, **Ignacio Doreste**, Adviser, ETUC, and **Luc Hendrickx**, Director of Enterprise Policy and External Relations, SMEUnited. Concluding remarks were given by **Monika Pozderac**, Counsellor for Employment and Social Policy, Croatian Presidency of the EU.



Main highlights



Juan Menéndez-Valdés, Executive Director of the European Foundation for the Improvement of Living and Working Conditions (Eurofound)

- While self-employment is not growing overall - with a marginal increase of proportion of self-employed without employees and a marginal decrease of self-employed with employees - some issues are changing.
- It is important that self-employed can use their autonomy and innovation capacity in an environment that ensures sustainable working conditions and adequate social protection and remuneration.



Dragos Pîslaru, MEP

- The hybrid forms of employment that we experience today have increased to a point where they represent a challenge for national labour and social legislation as well as for the financing of social security systems. The labour situation of people in self-employment differs widely: this category of workers has 'many faces' in terms of entrepreneurialism, economic dependence and precariousness. The main questions that obviously rises is: how to address them?
- If we look at the matter from a doctrinal perspective, we have, on the one hand, a more leftist approach that they should benefit from social protection. And indeed, the self-employed can no longer be perceived as archetypal representatives of the well-off liberal professions with good working conditions, because many of them are 'vulnerable' and 'concealed' self-employed struggling with precarious working conditions and low incomes.
- Even though their situation varies widely among Member States, they often do not have access to certain insurance-based schemes: mainly sickness, unemployment and accident-at-work and occupational injury benefits. Only twelve EU Member States provide comprehensive access, i.e. compulsory or voluntary insurance under all statutory social protection schemes.
- On the other hand, we have a perspective towards the right which says that we, as policy makers, should make sure that we eliminate all obstacles that prevents people to benefit from the opportunities of these new types of work. And speaking of opportunities, in Europe, opportunities related to self-employed status are diversifying and the freelance model has become more attractive for more and more professions. Self-employment is becoming more diversified and covers an increasing number of activities, with 32 million self-employed in the EU (14% of the working population).
- We now witness more and more stable self-employed workers that work in areas of public administration and services, but also more and more differences across the member states in this field, as this option of self-employment is a choice for Nordic countries, but for countries such as Romania, Portugal and Croatia it represents an obligation in absence of other opportunity. And we, at European level, need to make sure that equal opportunities and jobs are provided for all citizens, from North to South and East to West.

- This dilemma leads us to another dilemma, regardless of the approach we take when debating about the rights and conditions of the self-employment and platforms workforce. How to provide opportunities? How to provide the guarantee of all social rights?
- One can bring taxation into debate. Since the self-employment category has access to less rights, then less taxation is required for this category. Nevertheless, if we legislate and introduce the same rights for new types of work, then more taxation is required. Is more taxation beneficial for the economic competitiveness?
- The example of Uber: the trade unions of taxi drivers protest by accusing Uber of dumping, since they do not pay the same taxes. Nevertheless, the Uber drivers do not have the same social benefits as the ones the taxi drivers have and they condemn the inequality in their labour conditions. From a competition point of view, Uber provides better services to people in order to be attractive on the market. So we always need to take into account what are the benefits that the welfare effect has on the labour market.
- Food for thought and possible solutions:
 - is regulating platforms and self-employment activities a matter of fairness with regards to the employees of traditional work fields?
 - Is it a matter of social security justification to make sure that taxation of freelancing activities should be higher so that they can have a safety net?
 - Do we need to oblige them to have a safety belt, or shall we rather focus on awareness raising so that the individual choice is made taking into account the risks? Which approach provides better welfare effects on a competitive labour market?
- Shouldn't we rather focus on offering incentives, creating access and opportunities? This is in fact the right thing to do. The EU is also showing adaptation to this new context of the European labour markets that witnesses demographic, environmental and digital challenges. The Roadmap towards a Social Europe that was recently presented by the European Commission demonstrates a clear commitment to provide equal opportunities for all, fair working conditions and social protection and inclusion. This is indeed the way, but in order for the 'EU social policymaking' to be really back in business on the EU agenda, it is time to act with new instruments. This is why, no matter the solution envisaged, technology needs to be part of it. Digital solutions are the best way to tackle current challenges and any constraint or limit that we impose to technological development will only take us back, not forward.
- We need to look forward with optimism; we need to see how we can develop and not hinder things. We talk about bogus self-employed but we first must ensure that we don't make bogus legislation.



PANEL 1

Jason Piper, Head of Tax and Business law, ACCA

It is nearly 90 years since Mahatma Gandhi famously stated that “A nation’s greatness is measured by how it treats its weakest members.” This is not to suggest that being self-employed is a sign of weakness. Far from it; in many cases, the self-employed are the strongest in our society, with the courage and self-discipline to sustain themselves and often their families, pursuing their own ideals and their own vision.

- But even the strongest of individuals can come up against circumstances beyond their control, and in those times of need they might turn to friends and family – but if Gandhi is to be believed, then in a truly great country they can rely also on the society of which they form such a vital part for the support they need to help them and their dependents through to better times.
- In some cases it has been the weakest in our society who are forced to adopt the guise of self-employment, when it is not an appropriate reflection of how they are working, but simply a convenience for others.
- That’s something which can be driven, ironically, by the very provisions and systems which are supposed to exist to protect them. In many countries, the extra rights enjoyed by an employee are matched with an extra tax or social protection liability, which the employer effectively bears.
- And that issue of taxation is another vital piece in the jigsaw of how we treat the self-employed. What contribution does society expect from them, and what can we expect in return – and in the rapidly evolving world of the digitalizing economy, how should tax administrations and tax policy makers respond to the challenges of digital platforms, introducing new models for the supply of sales, goods, services and labour?

Max Uebe, Head of Unit, Employment Strategy, DG Employment, Social Affairs and Inclusion

- The European Commission adopted on 14 February the Communication on building a strong social Europe for just transitions.
- The document sets out a number of important initiatives that the Commission will undertake in the coming months, initiatives on minimum wages, gender, youth, skills and others.
- The EC Action Plan on Social Entrepreneurship will be presented in 2021. The Action Plan is expected to boost the potential of social enterprises in Europe to create jobs.
- The Commission Work Programme 2020 will also confirm many new initiatives. Commissioner Nicolas Schmit is in particularly interested in the topic of social enterprises.
- The number of self-employed in Europe is relatively stable. There is a rising number of own-account workers (solo entrepreneurs).

- Although the number is stable, the type of self-employment is changing. For example, Europe has less farmers now than ten years ago, but much more people have started platform work.
- It is important to keep in mind that the EU competences in this area are limited.
- The gateway to social and labour rights in Europe is the employment status.
- DG Employment is working on promoting entrepreneurship and protecting the weaker individuals of our society. DG EMPL is also trying to increase knowledge on self-employment opportunities. Budget lines in the European Social Fund are dedicated to support entrepreneurship. The EC is also working with the OECD on entrepreneurship issues by producing reports and policy briefs.
- The Commission has is currently looking at ways to improve labour conditions of platform workers. The EC is looking into this issue in a comprehensive way.
- The Council (EU Heads of State and Government) has recently adopted the Recommendation on Access to social protection for workers and the self-employed, which addresses a broad range of issues.
- The EC is looking into addressing the issue of the black box algorithmic management that could also be affecting the self-employed.
- It is also important to address the issue of taxation. The EC Expert Group on the Impact of digital transformation on EU labour markets had a recommendation to establish a Digital Single Window that would allow automated reporting of earnings by platforms to tax authorities. The EC has commissioned a study on the Digital Single Window.
- There are discussions around collective bargaining for vulnerable self-employed, however some clarification is necessary around the definition of vulnerable self-employed. Many member states are struggling with the criteria.

Marlene Stoel, Attaché for Social Affairs and Employment, Dutch Permanent Representation to the EU

- The economy is doing well: we see very low unemployment rates, the labour market is booming and there is room for innovation. Digitalisation is one of the driving forces behind this.
- The number of flexible workers is increasing, and the society is benefiting from this flexibility. New types of businesses are emerging, consumers are profiting from new services and goods.
- However, flexibilization has adverse effects, especially for the well-being of workers. They face increased risks: working conditions are deteriorating, there is less income security, social protection is at risk.
- Current design and use of flexible employment is not fully compatible with the available social protection systems. Ideally, they are like two building blocks that perfectly fit together, but unfortunately this is not the case. Incompatibility between flexible work arrangements and available social protection creates risks for workers.
- Labour market developments are on the political radar.
- In the Netherlands, the division between employees with a permanent contract and self-employed is fading. The design and use of flexible employment is changing. The share of people having flexible work is increasing. Compared to other member states, this share is very high in the Netherlands – around 30%. One of the explanations for this is laws that enable flexibility; fixed contracts bring minimal responsibility for employers. Also, there are fiscal policies that stimulate self-employment. There is also a long history of temporary work in the Netherlands.
- Increased flexibility in the labour market is also benefiting society. Businesses use flexibility to lower costs, increase efficiency and there are new business models due to

digitalisation and innovation. Consumers benefit as well – they enjoy new products and services. There are also benefits in the labour market. The threshold to find a new job is very low. New types of flexible jobs also favour workers that highly value flexibility.

- This is backed up by numbers – employment rate in the Netherlands is around 80% and unemployment rate is around 3%.
- However, there are always two sides to the story. Flexible workers face income insecurity, unpredictable working hours, working conditions are deteriorating and there is less investment in training and social protection.
- In a more traditional labour market there is a clear division between permanent workers and self-employed. The majority of workers always had a permanent contract and they fell under mandatory social protection. Only a relatively small share of self-employed followed a different regime with less protection and obligations but more responsibility.
- The possibility of self-employment has always been highly valued in the Netherlands – it is something very typical for the Dutch culture. The responsibility that comes with self-employment was generally accepted as a part of the entrepreneurial risk.
- However, the labour market is changing: the clear division is blurred and flexible employment is now differently designed and used. The group of flexible workers is very diverse. It goes from high income entrepreneurs with low risks to low income workers with very high risks that are in need of more protection. It does not seem reasonable anymore that all flexible workers should have the same risks and responsibilities as traditional self-employed.
- It seems necessary to modernise the flexible work arrangement and the available social protection systems. We have to create more compatibility and minimise the risks, especially because the number of flexible workers keeps growing and the general welfare can be harmed on the long term.
- How do we modernise? The Dutch government is aware of the ongoing developments and sees the challenges on the labour market as a problem that impacts the entire society. The solutions must be jointly looked into.
- Several steps towards modernisation have been taken by the Dutch government. One of the initiatives is the Labour Market in Balance Act, which is reducing the difference between employees and self-employed. It makes an effort to price flexibility and flexibilize permanent contracts.
- Another initiative will slowly diminish the existing tax exemption for self-employed from around 7.000 to 5.000 euros a year over ten years' time.
- Regarding training and education, the Dutch government is also working on an individual learning budget that for the moment is focussed on the most precarious. It is important that all flexible workers invest in their skills to increase employability and bargaining power.
- The Government has commissioned an independent task force to do research on the regulation of the labour market. The report is recently published and concludes that the growing divide between permanent and flexible workers can have large social and economic consequences. Flexible work is not fully discharged, but the advice is to create a more equal playing field for all workers, with less differences in protection between the different forms of work.
- On the 31st of March the Permanent Representation of the Netherlands is organizing an event about the modernization of the flexible labour market, amongst others, an in-depth review of this study will be presented. You are welcome to participate.

Karolien Lenaerts, Research Manager, KU Leuven

- Digitalisation is blurring the boundaries between the dependant employment and self-employment. Workers now have more autonomy and control, they can arrange their own working time; on the other hand, this means that we need new management practices. This is changing how our employment relationships look like and how they take form in practice.
- Platform workers are a very good example of this. Many of them are classified as self-employed. However, some court cases show that this does not necessarily correspond to the reality. Many of them actually work under subordination by platform; many of them work under very similar conditions as usual employees.
- The environment in which the self-employed operate is changing and there is segmentation: there are the genuine self-employed, employees and the group that fall in between them (which includes dependent self-employed but also other non-standard forms of work, such as on-call work). We need to pay more attention to the group in the middle. Many of them are bogus self-employed.
- There is a demand for this type of work – also from the workers. People want to be able to work in a more flexible way, to earn additional income. The incentive is there but we have to make sure that we maintain the balance between flexibility and security.
- Many self-employed start an activity as a secondary source of income but still depend on it, especially vulnerable workers do this type of activities combined with other forms of unsecure and unstable work. This group deserves additional attention.
- Do we trust people to understand the risks for self-employed? Some people are very well aware of these risks, but the most vulnerable ones are not. There is a call for policy makers to focus on this issue.
- A lot of measures are being taken and a lot of attention is being raised by policy makers. Many workers are organising themselves and social partners are representing self-employed who encounter similar challenges. This is an important avenue that needs to be further explored in order to understand which way of representation works the best for self-employed.
- Belgium is one of the few countries in Europe that has specific legislation on platform work (in the taxation area). One of the reasons this legislation was introduced was to understand whether platform work could work as a jumping board towards entrepreneurship – can it allow people try out certain activities in a protected environment where they don't have to register as self-employed or pay taxes nor security contributions and then move on and become self-employed.
- The legislation is set in a way that if a person earns less than a certain threshold (around 6000 euros annually), it frees them from taxes and social security contributions. If the earnings go above the threshold, the person has to register. This can only be done for people who work through an officially recognised platform. Platforms can register to be recognised on a voluntary basis.
- Platform workers have been interviewed for the research and the results have shown that only few of them use platform work to become self-employed. Moreover, despite the measures that are in place, data collection remains a challenge.

Mathijn Wilkens, Research Officer, Working Life Unit, Eurofound

- There are large differences in self-employment rates in the EU: overall in the EU28 the share of self-employed with employees is about 4% of the workforce and just over 10% is solo self-employed.
- Solo self-employment covers around 5% of the workforce in Germany and Denmark, while it covers around 16% in Italy and Romania and over 20% in Greece. Self-employed

are most strongly represented in agriculture and construction, but the highest number of self-employed work is in services and this is growing.

- Overall, self-employment rates are not increasing in the EU. There is a marginal increase of proportion of self-employed without employees and a marginal decrease of self-employed with employees if we look at labour force survey data from 2005 until now.
- Large country differences exist in trends, i.e. strong increase in solo self-employment in the Netherlands, UK, Slovakia, Greece and Czechia and strong decrease in Croatia, Portugal, Romania, Cyprus and Lithuania.
- In the first group, these increases can partially be explained by ageing – the older you are the more likely you are self-employed and a shift towards services and high-skilled professionals. Part of the rise in self-employment is also likely due to policy, for example in the Netherlands.
- The countries where self-employment is declining very strongly, it is largely due to the shrinking size of the agricultural sector which has a high rate of self-employment. In most of the countries, however, including large countries such as Germany, France, Italy and Spain, the rate of solo self-employment has not changed or slightly decreased during the last 15 years.
- Not all self-employed are the same. There has been considerable debate about bogus self-employment or economically dependent self-employment.
- In 2017 Eurofound published a study that explores the heterogeneity in the self-employed by analysing the European Working Conditions Survey and looks at economic dependency, autonomy in the job, the size of the business and income.
- The study found that we can distinguish 5 broad groups of self-employed in the EU. First group is called ‘employers’ (23% of self-employed): generally self-employed with employees that have many clients, autonomy and income.
- The second group is solo self-employed (26% of self-employed) that have lots of clients, autonomy and income.
- Third group – a more traditional group of self-employed (25% of self-employed) consisting largely of small shop-owners and farmers. Generally they are not dependent and have autonomy but income can sometimes be problematic and they tend to have very long working weeks as well.
- Finally, there are two groups of solo self-employed that are more concerning. One group (8%) is where workers are not dependent on a single client and in fact generally have many; however, these workers also have very little autonomy in their work and have lower levels of income.
- There is also a group (17%) that is more often dependent on one client only; they have lower levels of autonomy and are in more precarious income situations. The latter two groups report more often that they became self-employed out of necessity.
- Bogus self-employed or economically dependent workers are likely to be found among the latter two of these groups which cover around 3.6% of the labour force (including employees). However, the number of self-employed that would be labelled as bogus or economically dependent in most countries is likely to be smaller.
- This depends heavily on the definition but usually it is a combination of economic dependency and autonomy in the job. The European Working Conditions Survey uses a definition that finds it is about 1.3% of the labour force and Eurostat uses a similar definition on their latest LFS ad-hoc module on self-employed and find it is about 0.5%.
- The ILO has recently reviewed international classification of employment status and added a new category ‘dependent contractors’. This might allow to get a better picture in the future on the size of the phenomenon through national labour force surveys.
- Regarding social protection policy implication for the groups of self-employed that are in more precarious situations than others, practices differ in EU member states. Some try

to distinguish employees from self-employed which doesn't always work. Some try to introduce separate category of social protection rights; this, however, might create a new set of problems. Some are hoping that the European Commission will come up with a more inclusive system where social protection is made less dependent on employment status.

Gerhard Huemer, Director, Economic Affairs and Taxation, SMEunited

- It is very difficult to develop policy for self-employed at the European level due to national differences. Furthermore, there are many reasons why people decide to be self-employed: some see opportunities provided by technological developments, others are incentivised by the social protection or tax systems.
- We don't see the need for a common definition of self-employed at European level. Differences in member states must be recognised, including historical aspects, institutional set-ups, existing regulation. Every EU member state has a different concept of self-employment. It is therefore important to address this issue at national level – finding a European solution will not be easy.
- The distinction between self-employed and employees has to be done at national level.
- Basic social protection must be ensured for the self-employed; an individual then should be able to choose what protection it requires on top of the basic protection for the self-employed – different workers have different needs of social protection.
- The EU has 28 income tax systems, and these vary greatly when it comes to self-employed. It should be made easier to understand the systems: self-employed should not use a large part of their income to pay for tax adviser and accountants.
- There is a big number of SMEs with employees that face unfair competition from self-employed or from companies using work contracts with self-employed. Self-employed often offers services at prices, which undercut negotiated wages of employed workers. If we allow too many people working as self-employed by undercutting minimum wages, this will not contribute to stability in our society. If we give minimum wage for a certain type of work, it is unsustainable, if we allow self-employed to offer the same service for much less.



PANEL 2

Salla Saastamoinen, Director, DG JUST

- It is important to address the situation of the self-employed from the company law perspective in order to improve their working environment.
- The European Commission will be presenting a Communication in order to update the skills agenda on 4 March. The areas, including skills for self-employed will be addressed in detail in this document.

Stijn Broecke, Head of Future of Work, OECD

- We want to encourage self-employment and create all the conditions necessary for entrepreneurship, job creation and innovation to thrive. While we must address poor working conditions amongst some self-employed, but we must be careful to not deter genuine entrepreneurship.
- If we want to tackle the challenges around poor working conditions without damaging entrepreneurship, we need to think carefully about the causes of poor working conditions. If we start regulating without thinking of what it is that we are trying to achieve, we run a high risk of having the wrong outcome.
- There are three potential causes of poor working conditions: 1. Misclassification; 2. Vulnerability 3. Poor bargaining power.
- As regards to the issue of misclassification, there are self-employed workers who in reality are employees and, therefore, are denied the rights and protections they are entitled to. It is important to correctly classify these workers and governments can help in this area by clarifying the rules and regulations. It should also be made easier for individuals to challenge their employer. Unions and labour authorities should be allowed to take cases to court on behalf of workers. Penalties for firms and the powers of labour inspectors should be strengthened in some cases. Social security and tax authorities should be involved in this process as they have a clear incentive to get the right classification of workers. Finally, policy makers must get the financial incentives right: in some countries, the fiscal attractiveness of self-employment is so large, that it promotes misclassification and false self-employment. .
- However, even if we get this right, some workers will be genuinely difficult to classify. Some self-employed workers will share characteristics with employees. These are workers in the “grey zone” between dependent and self-employment. An example of that is the financially dependent self-employed. In most countries the self-employed who have the characteristics of an employee don’t have the same rights and protection as an employee.
- In these cases, we really need to think of the vulnerable workers that need to be protected, decide on the rights and protections you want to extend and decide on who has employer responsibility.
- Finally, some self-employed workers have a very poor bargaining power vis-à-vis their clients/employers. There is a challenge around the collective bargaining rights. There should be a possibility to extend collective bargaining rights to some self-employed workers, for example for the “grey zone” vulnerable workers.
- Imbalance in bargaining power may also arise due monopsony when there are only few buyers on the market that set the price and working conditions. In order to improve working conditions, we can tackle the consequences of monopsony. For example, through setting minimum rates. Monopsony can also be tackled more directly. It is important to increase the outside options of self-employed - the more outside options they have, the less monopsony there is.
- These causes are not mutually exclusive. It is important to achieve balance between healthy competition and innovation, on the one hand, and adequate working conditions, on the other. One must not come at the expense of the other.

Konstantina Strouvali, Deputy Head of Unit, European Competition Network and Private Enforcement, DG COMP

- The EC's DG Competition is reflecting on whether competition law is perceived as an obstacle in improving the working conditions.
- Undertakings that fix fees to be charged on a market will infringe EU competition rules. The concept of undertaking has been interpreted by the EU Court of Justice in a very broad way. Self-employed are traditionally seen as undertakings under competition law. By contrast, workers are not considered as undertakings. Therefore, collective bargaining where employers and employees jointly agree to improve the working conditions of the employees is not prevented by competition law.
- This raises an issue regarding individuals that are self-employed at least on paper but should be rather classified as workers because their situation is comparable to that of employees (so called false self-employed). The EU Court of Justice has looked into this issue in its judgment in FNV Kunsten and some guidance already exists. If there is a case of misclassification, the individual still has the right to collective bargaining.
- The difficulties arise when addressing "grey zones" and atypical working formats. The situation of self-employed is very heterogeneous in Europe. Certain self-employed might not be false self-employed but nevertheless in a vulnerable situation.
- DG Competition is reflecting upon which criteria one could apply in order to identify these vulnerable self-employed individuals that may require access to collective bargaining. The "false self-employed" concept will not fit the situation of many platform workers since in most cases there would be no workers with whom a self-employed could compare his/her situation and the subordination link required would also be missing, since for instance, platform workers often choose flexibly when they work. Moreover, the issues that some platform workers face may also be existing in the offline economy.
- It is important to be able to tackle the problem without going too broadly and having negative spill over effects. Consumers want to have low prices and good services; it is important to strike the right balance.

Willem-Pieter de Groen, Research Fellow and Head of Financial Markets and Institutions Unit, CEPS

- Platform work can take various different forms, which can affect the employment status (employee, self-employed or something else). When it comes to the relationship between the platform, client and the worker, the direction of work doesn't happen as it would in traditional forms of work.
- The most visible platform work is work performed on location, but a lot of platform work takes place online where the competition can be international – not only within the borders of the EU but also global. There is usually no employment contract in these cases.
- The conditions for self-employed differ a lot across countries. Several countries have none or very limited social protection for self-employed. Depending on the type of platform work, workers don't have a possibility to not accept lesser working conditions. The issues for lower-skilled workers must also be addressed.
- Earnings for self-employed platform workers differ largely depending on the competitive position (on location vs on-line workers; low/mid- vs high-skilled). The more specific skill is required, the better negotiating power and the better rate the worker has.
- Dependence on a single platform is an issue for self-employed. Almost a half of platform workers work on a single platform and the other half works on two or more platforms.
- The boundaries between self-employed and traditional workers are blurring, whereas the EU legislation provides a quite strict distinction between self-employed and employee. In countries, where the differences between self-employed and employees

are large, there seems to be a need to reduce these differences, otherwise an imbalance can be created between the systems.

Ignacio Doreste, Adviser , ETUC

- Europe trade unions face far more difficulties in collectively bargaining for atypical workers than in organising them. The main obstacles relate to narrow interpretation by national competition authorities of European competition law.
- Competition law, based on the EU Basic Treaty, has had a negative impact on collective bargaining. Competition authorities have intervened to prevent trade unions from signing collective agreements for the self-employed.
- The ETUC will continue to lobby the European Commission to ensure that competition law does not prevent self-employed workers from accessing their fundamental right to collective bargaining (which is also guaranteed by the Charter of Fundamental Rights of the European Union, the European Social Charter, the European Convention on Human Rights and ILO conventions). The recent approach of the European Commission towards this issue is welcomed.
- There is a discussion around which workers should be granted the right to collective bargaining. Rightfully, the European Commission doesn't want to allow the creation of cartels. It is therefore essential to focus on those who are not independent in the market – these workers should be granted collective bargaining. The approach based on professions or wages is rather risky.
- The European trade union movement doesn't oppose to digitalisation in general and digital labour platforms in particular, but concerns regarding conditions of platform economy workers need to be considered. Legislation that tackles only labour performed through digital platforms is not the way to go. Mere existence of the technology element is not definitory of specific labour relationships. Labour platforms are always going to find loopholes to circumvent the law. Overarching approach to atypical work is therefore necessary.
- There are, however, specific issue for platform economy workers, such as data protection, data surveillance, redressing mechanisms, rate exports, and others.
- There is already existing European legislation that might apply to online platforms (like the Temporary Workers Agencies Directive) and there are also some European online platforms that provide good working conditions to workers.

Luc Hendrickx, Director of Enterprise Policy and External Relations, SMEunited

- The issues that self-employed are facing nowadays are not new. The definition of self-employed and their distinction from workers is still being discussed.
- Self-employed are entrepreneurs; they are SMEs because they take the risk of entrepreneurship.
- The topic of self-employed has become rather trendy, especially since the boom of platform work. However, it is crucial to understand that every self-employed individual is vulnerable. There is no security in a situation of self-employment.
- Regarding flexibility of self-employed work, entrepreneurs are indeed flexible – they have to be – they work on average 80 hours per week while an average employee works 36-38 hours per week.
- The issue of bogus self-employed exists not only in platform economy but also when dealing with other issues, such as franchising contracts.
- A lot of problems around self-employment can be solved with common sense. We should not focus too much on the fact that self-employed should be considered as workers.

- There are many gaps when it comes to protecting the interests of SMEs and self-employed. There should be more solidarity and support from the trade unions for our positions.
- The major changes in the environment of self-employed are higher expectations from society and consumers; more obligations, responsibilities and red tape, more regulatory pressure; technological developments; more competition. Self-employed don't also have the bargaining power with consumers.
- The SMEs and self-employed poverty rates are much higher than the ones of employees. SMEs and self-employed are also still fighting for good legislation on insolvency and late payment. Support from society on these topics is not there.



Monika Pozderac, Counsellor for Employment and Social Policy, Croatian Presidency of the EU

- It is important to understand that both, the environment and the self-employed, are changing. Concepts that were fairly unknown few years ago, such as platform workers, are now being actively discussed.
- New forms of work require new approaches to traditional distinction between workers and self-employed. It is important

to address these issues on EU and member state level.

- Technology is changing everything: the way we work, live, think; it changes our expectations as citizens, workers, self-employed and as consumers.
- People need to be provided the right skills for the labour market, including entrepreneurial skills, so people can decide for themselves which path they want to choose. People need to be provided relevant information, so they know all the risks that are waiting for them if they decide to become self-employed.
- Self-employment is an opportunity to create new value and an opportunity for growth and new ideas. The number of self-employed is almost stagnant and regardless of the type of work self-employed do, there is an inherent need in people to be creative and independent, therefore there will always be a number of people who will want to be self-employed. These people should be supported.
- In order to avoid self-employment that is caused by the lack of opportunities, we should work on creation of opportunities. As long as self-employment is an informed choice that is based on risk assessment, it should be supported and not hindered.