

e 2 0  
u 1 8  
· a t



Digital Age

# Employment and working conditions of selected types of platform work

## National context analysis: Austria

[Employment and working conditions of  
selected types of platform work](#)

**Authors:** Willem Pieter De Groen, Zachary Kilhoffer and Karolien Lenaerts (CEPS), Elias Felten (University of Salzburg)

**Research Manager:** Irene Mandl

**Eurofound reference number:** WPEF18053/EN

**Related report:** Digital Age - Employment and working conditions of selected types of platform work

**Acknowledgements:** The authors would like to thank Miroslav Beblavy and Ana Silva of CEPS for their valuable input and review. Moreover, the authors are grateful to Sara Riso and Rebecca Florisson of Eurofound and the Austrian Ministry of Labour, Social Affairs, Health and Consumer Protection (BMASGK) for their feedback on earlier versions of this report. Moreover, the authors thank all the interviewees for their contribution to this report. All remaining errors are the responsibility of the authors.

© Austrian Presidency of the Council of the European Union 2018 and European Foundation for the Improvement of Living and Working Conditions (Eurofound), 2018

This report was funded by the Austrian Ministry of Labour, Social Affairs, Health and Consumer Protection (BMASGK).

Reproduction is authorised provided the source is acknowledged.

For any use or reproduction of photos or other material that is not under the Eurofound copyright, permission must be sought directly from the copyright holders.

Any queries on copyright must be addressed in writing to: [copyright@eurofound.europa.eu](mailto:copyright@eurofound.europa.eu)

The European Foundation for the Improvement of Living and Working Conditions (Eurofound) is a tripartite European Union Agency, whose role is to provide knowledge in the area of social, employment and work-related policies. Eurofound was established in 1975 by Council Regulation (EEC) No. 1365/75 to contribute to the planning and design of better living and working conditions in Europe.

**European Foundation for the Improvement of Living and Working Conditions**

**Telephone:** (+353 1) 204 31 00

## Contents

Executive Summary .....	1
Introduction .....	2
Methodology .....	2
Platform work in Austria .....	3
Regulatory framework.....	5
Formal relationships .....	12
Organisation and representation .....	15
Conclusions .....	17
References .....	19
List of abbreviations.....	21
Annex 1. Platforms mentioned in text.....	23

## List of Boxes

<b>Box 1. Discrimination and harassment.....</b>	<b>6</b>
<b>Box 2. Digital surveillance .....</b>	<b>8</b>
<b>Box 3. Health and safety .....</b>	<b>10</b>
<b>Box 4. Tax obligations .....</b>	<b>11</b>
<b>Box 5. Implications of employment status.....</b>	<b>14</b>
<b>Box 6. Representation .....</b>	<b>16</b>

## Executive Summary

Platform work (paid services intermediated via an online platform) in Austria is especially prevalent in the context of food delivery and personal transportation. These activities are centred in the capital Vienna; outside of this, platform work is not well-known or a subject of much public discourse in the country. The debate mostly takes place in popular media and among social partners. Only two quantitative studies have been published on Austrian platform work. Thus, a lack of data makes it difficult to ascertain the prevalence of the phenomenon, but it is presumed to be a small fraction of the workforce.

Since no regulatory framework has been developed specifically for platform work in Austria, general frameworks are applied to such workers. These depend on the employment status, type of work, amount of earnings from platform work activity, as well as other sources of income. Regardless of employment status, Austrian platform workers can access the mandatory social insurance schemes, although self-employed platform workers are responsible for all contributions. Most other legal protection frameworks only apply to employees, with notable exceptions including the prohibition of discrimination, rules on data protection, and ethical principles. For taxation and social insurance, different regimes exist for different employment statuses.

Formal relationships in Austrian platform work are varied. Even within a single platform, different contractual relationships between platform workers and the platform can exist. Based on desk research and expert interviews, self-employment seems to be the most common employment status among Austrian platform workers. Employment contracts represent the minority of cases.

In Austria, the protection and representation of workers as well as of employers is provided by statutory representative bodies, the Federal Economic Chambers (WKÖ) and the Chamber of Labour (AK) with mandatory membership.

Both self-employed platform workers and platforms registered in Austria are members of the WKÖ. Therefore, the WKÖ (representing employers) has debated contentious issues between platforms, platform workers and competing industries internally. Thus, self-employed platform workers are represented alongside platforms, rather than having separate representative bodies to conduct negotiations. A recently created trade union targets sole proprietors for membership. However, as of early 2018, it is unclear how many platform workers are active in this union, and whether it, or the traditional representative bodies, will form the basis for platform workers' representation. The Austrian Trade Union Confederation (ÖGB) also supports platform workers, for example by connecting them to relevant trade unions, or legal advice. Lastly, Foodora is the only platform in Austria with a works council, which was founded by couriers of the platform with the assistance of the trade union Vida.

## Introduction

A recent development on European labour markets, platform work, has attracted significant attention in academic and policy circles (Eurofound, 2015). Still, much of the available evidence is anecdotal, and there is limited understanding of the implications of platform work for the labour market and for the workers.

Platform work in Austria is particularly interesting, given the high level of involvement from policymakers. Platform work became a topic of public discussion with the rapid development of the Uber<sup>1</sup> and Foodora platforms. The ridesharing service Uber has been active in Austria since at least 2014 (The Local, 2014). The German platform Foodora began its food service operations in Austria around June 2015. At the same time it purchased the domestic food delivery service Heimschmecker (Delivery Hero, 2015).<sup>2</sup> Task Farm, one of the few national platforms, was founded in 2013. Nevertheless, online platforms are largely unknown among the general public.

There is no uniform definition for platform work or related concepts in Austria. Platform work is often referred to as *Plattform-basierte Arbeit* (platform-based work), while crowdwork or *Crowd Arbeit*, cloud work or *Cloud Arbeit*, and gig work or *Gig Arbeit* are used synonymously. For authors such as Herr (2017) and Lutz and Risak (2017), however, cloud work refers to online platform work, whereas gig work refers to local platform work. The main terms for platform worker are *Crowd-sourcerIn* (crowd sourcer) and *Crowd-workerIn* (platform worker). Platforms are usually known by the German translation *Plattform*. For this report, platform work takes its definition from Eurofound (2018) as follows:

*Platform work refers to an employment form that uses an online platform to enable organisations or individuals (workers) to access other organisations or individuals (clients) to solve specific problems or to provide specific services in exchange for payment.*

Thus, the research focus is on online platforms matching supply and demand for paid labour. The main features of platform work, as understood in this report, are: Paid work organised through online platforms; three parties involved, including the online platform, client and worker; aim is to conduct specific tasks or solve specific problems; form of outsourcing/contracting out; break-down of 'jobs' into 'tasks'; on-demand services.

## Methodology

Eurofound (2018 – forthcoming) is conducting a research project 'Digital age: Employment and working conditions of selected types of platform work'. This working paper is the country contribution for Austria. It explores the context of platform work in Austria in terms of the applicable regulatory frameworks as well as the organisation and representation of platform workers in the country.

The analysis is based on desk research and 13 semi-structured interviews with experts from academia (4), policymakers at national and local level (3) and representatives of employee and employer organisations (6) between December 2017 and January 2018. These interviews covered the status and position of platform workers, relevant laws and regulations, and the role of representative bodies. All but two interviews took place face-to-face in German or English.

---

<sup>1</sup> All mentioned platforms can be found in the annex.

<sup>2</sup> Heimschmecker was a food delivery service founded in 2013, but it is unclear whether it utilised a platform work system.

Additionally, for the assessment of the employment and working conditions, six Austrian platform workers were interviewed. Recognising the heterogeneity of platform work, the interviewees included platform workers active in two different types of platform work, as defined in Eurofound (2018 – forthcoming).<sup>3</sup> These were local platform-determined routine work (hereafter abbreviated ‘local platform-determined’) such as [Uber](#) and [Foodora](#) and online contestant specialist (hereafter abbreviated ‘online contestant’) such as [eYeka](#) and [99designs](#). Local platform-determined is low-skilled platform work performed locally, whereby the platform matches client and platform worker. Online contestant is high-skilled platform work performed online, whereby a contest system matches client and platform worker.

These interviews, together with similar interviews in other countries, are used for comparative analysis to derive qualitative findings on working and employment conditions for the different forms of platform work in Eurofound (2018, forthcoming). In this working paper, they provide anecdotal insights into platform workers’ working conditions in Austria, as presented in boxes in the following sections.

## **Platform work in Austria**

### **Variety of platforms**

A number of different platforms are active in Austria, however virtually all were first founded in other countries before moving to Austria. For local platform work, the largest players provide transportation (such as Uber and Taxify) and delivery (such as Foodora, Uber Eats, and Lieferservice.at). Several of these platforms (such as Uber and Foodora) have offices in Austria. In addition, BOOK A TIGER<sup>4</sup> connects clients with platform workers who offer cleaning services, and MyHammer connects clients with handymen and women for household tasks. Online platform work is represented by both international micro task platforms such as Clickworker, and contest-based work such as GoPillar.

Some platforms matching locally delivered services, notably Foodora and Uber, are exclusively or primarily active in Vienna. The relatively large population and high density of population in the capital enable these platforms to function. For online platforms, several interviewees suggested that usage may be equally prevalent across Austria, but no data corroborate this.

A great variety exists in Austria’s platform economy in terms of services offered and manner of platform operation. The scale of tasks varies from small to large, requiring basic or advanced skills. Workers and platform, or workers and clients, can be matched in a number of ways, including through offers and contests.

### **Spread of platform work**

As of early 2018, only two studies – Huws and Joyce (2016) and Eurobarometer (2016) – have quantitatively assessed the prevalence of platform work in Austria. Other information is anecdotal.

The Huws and Joyce (2016) study was carried out with financial support from the *Arbeiterkammer Wien* (Vienna Chamber of Labour). For the online survey, 2,003 Austrians aged 18-65 responded about their work experiences via ‘sharing economy’ platforms in April

---

<sup>3</sup> Eurofound (2018 – forthcoming) also assessed the working conditions of local worker-initiated moderate skilled work (such as ListMinut and Helping). This type of work was omitted from this analysis since there were no active platforms providing this type of work in Austria.

<sup>4</sup> According to BOOK A TIGER’s [website](#), the platform no longer accepts new customers in Austria.

2016.<sup>5</sup> The results were then weighted by age, gender, region, and work status to match the profile of the average adult population of Austria.

The survey covered the demographic characteristics, work activities and income of platform workers. Some 18% of the respondents indicated they had found work via sharing economy platforms in the last year. 5% of the respondents indicated they found paid work via online platforms at least once a week, while 9% do so at least once a month. The rest responded they perform such work sometimes or never. The majority (59%) of the Austrian platform workers were found to be men. Moreover, platform work is somewhat more likely to be performed by younger people. Most of the platform work is conducted as a side activity. Of the 451 Austrians who had found paid platform work, 2% indicated they receive all their income from platform work, 11% receive more than half, while 59% earn less than half. The remaining 28% responded they do not know or prefer not to say.

The results of Huws and Joyce (2016) ought to be viewed cautiously. Several expert interviewees noted their perception that this study overestimates the number of Austrian platform workers. Because the survey was part of an online survey that recipients were paid to complete, it is conceivable that the pool of respondents was more likely to include platform workers. Additionally, Huws and Joyce (2016) found that paid work in the sharing economy is difficult to distinguish from other forms of ‘casual income’ such as ‘odd jobs’ found via online bulletin boards like Craigslist, or traditional freelance agencies that have migrated online (De Groen et al, 2017). Accordingly, those who reported ‘using online platforms to find paid work’ might include people who answered positively because they have used online job boards (such as Monster.com) to find traditional employment.

The Eurobarometer telephone survey found that less than 2% (7 out of 501 respondents) regularly offer services using platforms (on a monthly basis). This figure is less than a quarter of the findings of Huws and Joyce (2016). Furthermore, 15% of Austrians responded that they had used the services of a platform at least once. However, awareness of the existence of platforms was found to be quite high compared to other European nations. 62% of Austrians had heard of platforms, and by this metric only three EU nations (France, Estonia and Ireland) had a higher awareness rate.

## **Debate on platform work in Austria**

The debate on platform work in Austria has taken place largely among social partners and in popular media, such as newspapers. The Austrian Chamber of Labour has been especially active in facilitating discussions among platform workers, platforms, and traditional industries, as well as commissioning research. In the newspapers and public media, the debate largely concerns whether platform work is desirable as remuneration can be low, and working conditions are often perceived as less favourable than in other forms of work. On the other hand, the debate highlights the benefits of forms of labour that offer workers more flexibility. Most discussion focuses on the advantages and disadvantages of local platform work activities through platforms like Uber and Foodora.

With regards to platform work delivered locally, the debate in newspapers typically covers the workers and trade unions voicing concern for fair working conditions, worker representation and employment status. In turn, consumers and platforms have emphasised the benefits platforms can offer in terms of convenience or price. The debate does not appear especially focused on social protection, compared to some other EU Member States (Eurofound, 2018 – forthcoming). Several expert interviewees indicated that this is because all categories of workers are covered at least to some degree under Austria’s mandatory social insurance system. Moreover, Austrian legal experts have actively published opinions and

---

<sup>5</sup> ‘Sharing economy platforms’ is a broader category than platform work, including, for example, those for exchanging goods as well as services, and services traded without payment.

commentaries. These have discussed how platform work fits under existing labour, competition and taxation laws, and considered whether specific new legislation is needed to clarify the status of platform work under Austrian law.

Additionally, the Austrian government has encouraged research and debate on platform work, and the active participation of social partners in discussions. According to several expert interviewees, the Austrian government under the former ruling coalition, headed by the *Sozialdemokratische Partei Österreichs* (SPÖ, Social Democratic Party of Austria), was quite active in promoting dialogue on platform work between platform workers and platforms. The SPÖ-led coalition emphasised that platform work has risks for working and employment conditions, but potential to create new employment. The current ruling coalition that has taken office in December 2017 has not announced a specific agenda on platform work as of early 2018.

## Regulatory framework

As no specific regulatory framework has been developed for platform work in Austria, general regulatory frameworks apply (European Commission, 2016). Austria has a civil law system in which regulatory frameworks are based on written law, legal codes and legal statutes. The primary legal code of Austria is the *Allgemeines bürgerliches Gesetzbuch* (ABGB, General Civil Code). Federal laws also govern social law, which is split into different legal sources, including the *Allgemeines Sozialversicherungsgesetz* (ASVG, General Social Insurance Code), *Arbeitslosenversicherungsgesetz* (AIVG, Unemployment Insurance Code) and the *Gewerbliches Sozialversicherungsgesetz* (GSVG, Trade Social Insurance Code).

Austrian individual labour law covers the relationship between employers and individual employees (and other categories of workers). Austrian individual labour legislation has no single source. Instead, it derives from numerous sources including the ABGB, specific statutes and court rulings. The majority of labour laws originate at the federal level. The legislation must additionally comply with the regulations and directives of the EU and their interpretation by the Court of Justice of the European Union (CJEU).

Austrian collective labour law covers the relationship between collective parties – the employer, employer organisations, works councils and trade unions – and collective agreements. In principle, Austrian collective labour law is subject to one single source of law – the *Arbeitsverfassungsgesetz* (Labour Constitution Act).<sup>6</sup>

The determination of which regulatory framework applies is based on employment status and the type of work performed.

## Employment law

The main goal of individual labour law is to protect employees against the disadvantages deriving from their personal dependence and unequal bargaining power.<sup>7</sup> This applies especially to the content of employment contracts, minimum wage, dismissal protection, working time protection and entitlement to paid leave. These requirements generally apply only to employees, but there are also provisions which protect people who are personally independent but perform work in economic dependence. The regulatory framework for these *arbeitnehmerähnliche Personen* (employee-like persons)<sup>8</sup> applies to economically dependent self-employed individuals, including self-employed platform workers if the criteria for being classified as employee-like person are met. The regulations applying to employee-like

---

<sup>6</sup> Collective labour law is discussed in the section on ‘Organisation and representation’.

<sup>7</sup> As employees are characterised in a subservient role in the employment relationship.

<sup>8</sup> Employee-like persons are further discussed in ‘Formal relationships’ in a later section.

persons include anti-discrimination law and limited liability for compensation due to loss or injury. Furthermore, general legal sources also influence the labour relationship irrespective of the employment status, including for example data protection, discrimination, and non-ethical behaviour.

### **Box 1. Discrimination and harassment**

Several interviewed platform-determined workers noted recurrent instances of discrimination, while neither of the two contest-based interviewees mentioned discrimination as a problem. Harassment on the basis of discrimination was also discussed.

Specifically, interviewees described a particular restaurant employee who sexually harassed female workers affiliated to the food delivery platform while they waited for orders. After workers complained about these incidents to the platform, the platform contacted the restaurant and the objectionable behaviour seems to have stopped. Additionally, one interviewee noted experiencing occasional discrimination from clients on the basis of their ethnicity, such as being treated coldly or verbal harassment.

Compared to traditional employers, platforms may have less-developed mechanisms for handling discrimination and harassment. On the other hand, interviewees noted that in their platform work, there is less interaction and more anonymity, and thus potentially lower risk for discrimination than in traditional work. One noted they could not find traditional work due to difficulties speaking German, but platform work represented an opportunity for decent pay, with few barriers.

The general basis of individual labour law is the ABGB which defines the labour contract, but also specific matters including temporary inability to work and notice periods for termination. Beside this general source of law, specific regulations for specific types of work and special situations (like holiday leave and maternity leave) exist. The most important legal distinction is between white and blue collar workers, respectively subject to the *Angestelltengesetz* (AngG, White Collar Act) and *Gewerbeordnung* 1859 (GewO, Trade Regulation Act). However, the Austrian government has taken measures to harmonise the legal framework for white and blue collar workers, notably with regards to continued remuneration in case of justified absence from work, and notice periods for termination of employment.<sup>9</sup>

A peculiarity in Austrian employment law is that not only trade unions with voluntary membership, but also representative bodies of employers and employees characterised by mandatory membership, can conclude legally binding collective agreements.<sup>10</sup> Minimum wages are determined by collective agreements, which apply to approximately 98% of the Austrian workforce (Eurofound, 2009b). Collective agreements and therefore minimum wages only apply to Austrian platform workers who are formally employed, and only if the platform is a member of the concluding party, which requires that the platform is located in Austria. The latter aspect is not relevant if employees have their habitual work place in Austria. In this case the employee is entitled to minimum wages provided in collective agreements for comparable local employees of comparable local employers according to section 3 (2) *Lohn- und Sozialdumping-Bekämpfungsgesetz* (LSD-BG, Act to Combat Wage and Social Dumping). However, this implies the existence of comparable Austrian employees and Austrian employers. Otherwise, platform workers have no minimum wage, and are only entitled to receive the agreed remuneration after the provision of service, as stipulated in their

---

<sup>9</sup> Other important sources of law include: the *Gleichbehandlungsgesetz* (GlBG, General Equal Treatment Act); *Dienstnehmerhaftpflichtgesetz* (DHG, Employees' Liability Act), *Lohn- und Sozialdumping Bekämpfungsgesetz* (LSD-BG, Act to Combat Wage and Social Benefit Dumping) and the *Behinderteneinstellungsgesetz* (BEinstG, Participation Act of People with Disabilities).

<sup>10</sup> Section 4 (1) 1 ArbVG.



contract with client or platform. Collective agreement coverage of platform workers is further discussed in ‘Organisation and representation’.

*Arbeitsverträge* (employment contracts) are defined in section 1151 ABGB and characterised by the employee agreeing to provide service to another person (the employer) in personal dependence. Employment contracts are concluded by mutual agreement and are not required to be in standardised or written form. If a written employment contract does not exist, the employee has the right to a *Dienstzettel* (written notice) of the most important contents of the contract defined by section 2 of the *Arbeitsvertragsrechtsanpassungsgesetz* (AVRAG, Employment Contract Law Amendment Act). However, this notice is merely informative and not legally binding. Regardless, the actual performance of the employment contract must meet the legal requirements in section 1151 ABGB. The employment contract must not contain any substantial disadvantage to the employee. These stipulations for employment contracts only apply to platform workers performing work by merit of an employment contract.

*Entlassungsschutz* (dismissal protection) covers extraordinary termination for good cause, while *Kündigungsschutz* applies to ordinary termination that abides by statutory and contractual notice periods. If a works council exists for the organisation, the employer must inform and hear from it prior to any dismissal. Dismissal protection only applies to platform workers with an employment contract.

The *Gleichbehandlungsgesetz* (GIBG, Equal Treatment Act) forbids discrimination in the workplace. Prohibited behaviour includes direct or indirect discrimination due to ethnicity, religion or belief, age, gender, and sexual orientation.<sup>11</sup> The GIBG applies to all in an *Arbeitsverhältnis* (work relationship) in Austria, including employees and employers, as well as to all in a *Beschäftigungsverhältnis* (employment relationship), including homeworkers and self-employed employee-like persons, and thus employed or employee-like platform workers.

The *Arbeitszeitgesetz* (AZG, Labour Time Act) covers part-time and full-time employment contracts. The AZG defines mandatory working time limits which must not be exceeded and provides for supplement payments for overtime work. The compliance with these rules is ensured by inspectors, and violations are sanctioned with fines. The AZG only applies to platform workers with an employment contract.

Paid leave entitlement is governed by the *Urlaubsgesetz* (UrlG, Holiday Law), which entitles employees to 25 days of paid holiday per calendar year assuming a five-day work week. Additionally, the *Entgeltfortzahlungsgesetz* (EFZG, Continuation of Remuneration Act) and the AngG entitle blue and white collar employees, respectively, to up to 10 weeks of paid time off per calendar year in the case of illness (the amount increases in relation to the duration of employment). The employer is responsible for these entitlements. These entitlements only apply to platform workers with an employment contract.

Employee liability for damages to the employer is limited by the *Dienstnehmerhaftpflichtgesetz* (DHG, Employees’ Liability Law). The employee is only liable if there is any negligence or intention. Indeed, the employee is fully liable in case of damage inflicted intentionally. In other cases, the judge can determine the liability based on the level of negligence, and the level of the employee’s salary versus the cost of damages. In case of an *entschuldbare Fehlleistung* (excusable error) the employee cannot be held liable at all. Limited liability laws apply to platform workers who are either employees or employee-like.

Data protection and privacy are particularly important in Austria, as data privacy is not only an *allgemeines Persönlichkeitsrecht* (fundamental personal right), but also guaranteed by the Austrian constitution. General principles of Austrian data protection apply to the dealings of platforms, and to all platform workers. These include the *Datenschutz-Anpassungsgesetz*

---

<sup>11</sup> § 17 GIBG.

2018 (DSG 2018, Data Protection Amendment Law), providing principles including data privacy and freedom of information. The Data Protection Amendment Law came into force on 25 May 2018, and clarifies what is not covered by the EU-wide GDPR (General Data Protection Regulation (GDPR) (WKÖ, 2017a). While data protection laws apply to workers regardless of employment status, and thus also to platform workers, no instances of data protection laws specifically for platform work have been found or indicated by expert interviewees. Goricnik and Riesenecker-Caba (2017) discuss data protection in relation to platform work in Austria, essentially concluding that a number of legal uncertainties<sup>12</sup> have yet to be resolved, but in any case transfer of potentially sensitive data is inseparable from platform work. The GDPR is expected to help resolve legal uncertainties.

### **Box 2. Digital surveillance**

Interviewed platform workers shared their thoughts on autonomy, tracking and data collection from the platform. None of the contestants knew of any tracking mechanisms concerning their platform work, beyond a rating system of little practical significance.

Platform workers in the food delivery service, however, reported that the platform closely monitors them via the app. Using the GPS function on their smart phone, it tracks certain rider statistics such as deliveries per hour, average speed and ranking alongside other workers. If a rider's performance falls below a certain threshold for too long, a 'rider captain' speaks to them and attempts to find a solution.

In short, all employment law would apply to platform workers with an employment contract. Employee-like workers have some protections of employees, such as assurance of equal treatment in the workplace and limited liability, while lacking dismissal protection and paid leave entitlements. The only employment law applying to self-employed platform workers is quite general, such as that pertaining to data protection, discrimination, and protection against a breach of ethical principles.

### **Social protection**

Austria has a mandatory social security system that encompasses all forms of employment – from dependent employment (employee) to independent (self-employed) work. The Austrian mandatory insurance system is composed of sickness insurance, pension insurance, workplace accident insurance and unemployment insurance (Bruckner and Krammer, 2017). The only distinction between employees and self-employed as regards mandatory insurance arises with unemployment insurance. The self-employed are not automatically subject to unemployment insurance, but have the possibility to voluntarily 'opt-in', according to the *Arbeitslosenversicherungsgesetz* (AIVG, Unemployment Insurance Act).<sup>13</sup> Special rules also exist for farmers, artists, civil servants and independent professions like barristers or medical practitioners. There are no special rules for platform workers.

While both employees and self-employed persons are subject to the Austrian mandatory social security system, they are governed by different social security legislation. Employees with a usual place of work in Austria are subject to the ASVG. The same is true for *Heimarbeiter*<sup>14</sup> (literally 'home-workers') under the *Heimarbeitsgesetz* (HeimAG, Home Work Law), and *arbeitnehmerähnliche freie Dienstnehmer* (approximately 'employee-like freelancers'), who are individuals performing work on the basis of a *freie Dienstvertrag* (approximately freelance contract) without personal dependence, but with economic

---

<sup>12</sup> For example, it is not always clear when clients or platform workers must consent to a platform utilising their data, and to what extent digital surveillance or control mechanisms might indicate that a platform is acting as an employer.

<sup>13</sup> Section 3 AIVG.

<sup>14</sup> Section 4 (1) 7 ASVG.

dependence.<sup>15</sup> The distinctions between these employment statuses are further explored in the section on ‘Formal relationships’.

Self-employed who are not economically dependent (including freelancers) are subject to the GSVG (Bruckner and Krammer 2017; Warter, 2016). In particular, this includes people who carry out a licensed trade, are subject to the GewO and mandatory members of the WKÖ. However, some services and trades are not covered by the GewO. Self-employed individuals who carry out such an unlicensed trade are nevertheless subject to the GSVG if they perform their services on the basis of a *Werkvertrag* (approximately service contract) or on the basis of a *freier Dienstvertrag*, but without economic dependence.<sup>16</sup> This group is also called *Neue Selbstständige* (new self-employed), defined as persons who, on the basis of a business activity, obtain taxable income from self-employment, and do not hold a trade license (WKÖ, 2018b).

The legal consequence of falling within the personal scope of the ASVG or the GSVG is that the person concerned is subject to mandatory sickness, pension, workplace accident and unemployment insurance.<sup>17</sup> The inclusion into all social security branches nevertheless requires that the earnings of the person concerned exceed the *Geringfügigkeitsgrenze* (minimum income threshold). This level is €438 per month (for the year 2018) for the ASVG and for ‘new self-employed’ under the GSVG. If the earnings do not exceed this level, the person is only obliged to have workplace accident insurance.

The Austrian Social Insurance System is financed by contributions. Within the scope of the ASVG, the obligation to pay contributions is divided between the employee (17.1% of gross income) and the employer (20.6%), except the accident insurance, which is financed exclusively by the employer.<sup>18</sup> Self-employed individuals falling within the scope of the GSVG are responsible for 100% of the contribution.

Unemployment insurance is subject to a few additional criteria. Entitlement to unemployment insurance is based on having been an employee for 52 weeks of the previous 24 months.<sup>19</sup> Employees and employers are each responsible for paying 3% of the gross wage to unemployment insurance. Self-employed who opt into the unemployment insurance scheme are responsible for paying 6% of the gross wage and become bound to this option for the following eight years.<sup>20</sup> Due to this long-term commitment, it may be difficult for platform workers to access unemployment insurance, as platform workers may experience frequent transitions between dependent and independent work (Cheselina, 2017). Lastly, one can make side earnings and still receive unemployment benefits, provided that one earns less than the minimum income threshold (Hauptverband der österreichischen Sozialversicherungsträger, 2017). Because unemployment benefits are unchanged by side earnings up to €438 per month, platform work activities may be attractive for unemployed Austrians to supplement their income.

No special rules exist for social protection of platform workers. Thus, platform workers earnings more than the minimum income threshold are subject to the GSVG or ASVG, depending on their employment status: whether employee, employee-like, or self-employed.

---

<sup>15</sup> Section 4 (4) ASVG.

<sup>16</sup> According to section 2 (1) 8 GSVG.

<sup>17</sup> As noted, unemployment insurance only applies on a voluntary basis to persons insured under the GSVG.

<sup>18</sup> The rate of contribution is calculated as a percent of income up to a *Höchstbeitragsgrundlage* (maximum contribution ceiling) of €5,130 monthly for 2018 (Hauptverband der österreichischen Sozialversicherungsträger, 2017). The result is a decreasing tax burden for higher incomes.

<sup>19</sup> § 14 AIVG.

<sup>20</sup> Self-employed may also opt for private unemployment insurance alternatives.

The only mandatory insurance distinction between self-employed and employees is that the former need not have unemployment insurance.

### Health and safety

The legal basis for health and safety in the workplace is the *ArbeitnehmerInnenschutzgesetz* (ASchG, Occupational Health and Safety Act) (EU-OSHA, 2018; WHO, 2012). The ASchG sets out obligations of employers and applies to ‘employees’. There is no doubt, however, that for the purposes of the ASchG, the term employee (*Arbeitnehmer*) is not limited to people providing services on the ground of an employment contract according to section 1151 ABGB. For example, people without any contract or volunteers are also included. Even employee-like *freie Dienstnehmer* in the sense of section 4 (4) ASVG are subject to the ASchG.<sup>21</sup> Most of the regulations of the ASchG are applicable to home office, with the exception of the articles regulating *Arbeitsstätten* (workplaces).

#### Box 3. Health and safety

Both interviewed contestants noted occasional difficulties with eye strain and back pain related to their working days on computers. They considered these minor issues typical of many modern occupations consisting of desk work, rather than specific to platform work.

Platform-determined interviewees noted the potential for more serious safety concerns associated with riding bikes under time pressure. The platform provides helmets, but does not oblige riders to wear them. One interviewee experienced a serious accident on the job when a car struck him. The platform covered the damaged bike, helmet and phone, as he had an employment contract. However, the interviewee was very concerned about what would happen if he could not continue working. Other interviewees without an employment contract noted that they are fully responsible if they injure themselves or their property while on the job.

Statutory workplace accident insurance is mandatory for employees and *freie Dienstnehmer* falling within the personal scope of the ASVG, and entirely paid for by the employer or contract-giver. Insured self-employed people are subject to obligatory workplace accident insurance as well under the GSVG. Thus, platform workers may be covered by health and safety regulations, depending on their employment status and their workplace. Enforcement is ensured by the *Bundesministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz* (BMASGK, Federal Ministry for Work, Social Affairs, Health and Consumer Protection). The ASchG does not apply to civil servants,<sup>22</sup> agricultural and forestry workers,<sup>23</sup> domestic workers in private households or homeworkers.

### Special taxation rules

In principle, all earnings from platform work activities are subject to taxation. If platform work is performed on a self-employed basis as a side activity (performed alongside employment, studies, or household work), they are considered *Nebenerwerb* (side earnings). Such side earnings must be declared at the tax office if they exceed €720 monthly and the total amount of all earnings exceeds €12,000 per year for 2018 (BMF, 2018). If the self-employed activities are the only source of income, the benchmark for declaration is €11,000 per year. If the earnings are above these thresholds, the platform worker is liable for income tax, and otherwise not.

<sup>21</sup> § 2 ASchG.

<sup>22</sup> Civil servants are covered by the *Bundes-Bedienstetenschutzgesetz* (B-BSG, Federal Civil Servant Protection Law) in the BGBl. I Nr. 70/1999.

<sup>23</sup> Agriculture and forestry workers are covered by the *Landarbeitsgesetz* (LAG, Law on Agricultural Work) in BGBl. Nr. 287/1984.

#### **Box 4. Tax obligations**

Employees of the food delivery platform had income tax automatically deducted from their pay checks. One interviewee (a freelancer) stated to be exempt from income tax due to earning less than €11,000 the previous year and being a student. Generally, interviewees stated that the amount owed depends on their employment status and total annual income. One interviewed contestant stated to declare earnings from platform work the same way as their other earnings – via an annual tax declaration. The other interviewed contestant was unsure how platform earnings were taxed, but never had to contend with the issue.

Additionally, the self-employed platform worker must pay value-added tax (VAT) on their services or goods sold when they charge more than €30,000 per year. The tax office also determines whether *Umsatzsteuer-Vorauszahlung* (advance value added tax payments) is applicable, as well as *Einkommenssteuer-Vorauszahlung* (advance income tax payments) (BMF, 2017; WKÖ, 2018).

#### **Litigation on platform work**

As of early 2018, it does not appear that any lawsuits specifically covering platform work have occurred in Austria. However, one expert interviewee indicated that the book *Arbeit in der Gig-Economy* (Lutz and Risak, 2017) was written in part to assist platform workers who wanted to file lawsuits. In particular, the book contains relevant passages of law that might be useful in court if platform workers would challenge their employment status or other aspects of their platform work.

#### **New or updated regulatory frameworks**

A discussion has taken place in the literature about covering platform workers with the HeimAG (Warter, 2016; Risak, 2017). This is a specific regulatory framework which provides the possibility of stipulated minimum wages to self-employed who work from home to produce or pack specific goods for an employer. However, as the law stands, the HeimAG is limited to production, processing, or packaging of goods in a worker's home or workplace of choice. Platform work though concerns delivery of services or - in case of online work - intellectual services that are not covered by the HeimAG. Therefore, the HeimAG would require significant modifications to apply to platform workers.

In addition, an expert interviewee from academia indicated that there has been one concrete effort to introduce a dedicated regulatory framework for platform work. A prominent Austrian legal scholar was commissioned by BMASGK to draft a piece of legislation that would define 'platform work' and related terms, and would contain a clear regulatory framework. This draft piece of legislation has not been subject to public debate or passed as law, and no interviewee believed that the law would be passed. The piece of legislation would have defined four terms as follows:

- **Platform work** is the organisation of [platform] workers' services for beneficiaries through the circuitry of platforms, which goes beyond mere work intermediation in the sense of § 94 Z 1 of the GewO, BGBI. Nr. 194/1994.<sup>24</sup>
- **Platform workers**<sup>25</sup> are employees and employee-like persons. Employee-like persons are persons who, without being in an employment relationship, perform work on behalf of certain persons, and are economically dependent.

<sup>24</sup> The referenced legislation lists the 84 regulated trade types of the GewO.

<sup>25</sup> The original term *Arbeitskräfte* can be translated as labour force or workers.

- **Platforms** are that which, out of economic self-interest, organise labour on the behalf of beneficiaries. The platform is, according to the specific circumstances, either employer or principal of the [platform] worker.
- **Beneficiaries** are those who deploy [platform] workers, by way of a platform, for their own tasks.

In addition to legally defining platform work terms, the legislation would have entailed a shift in burden of proof. Platforms would have been assumed to have an employment relationship with platform workers, which would have been rebuttable. Other components of the platform work legislation would have ensured the portability of ratings, and forbidden the practice of keeping a completed work while refusing to pay for it.

## Formal relationships

A variety of formal relationships exists between clients, platform workers and platforms in Austria because of the heterogeneity of platforms and platform work. Usually, the relationships are contractually determined by the general terms and conditions of the platform (Risak, 2015; Warter, 2016), which the platform worker must accept to begin working, or a contract generated upon accepting a task. Otherwise, specific contracts can determine the relationships between platform, platform worker and client. In many cases, the general terms and conditions, which dictate formal relationships, are written ambiguously (Lutz and Risak, 2017).

Formal relationships entail employment status, which determines which labour laws apply, as well as which social protections are obligatory. The employment status of platform workers has been explored by Austrian scholars such as Karl (2016), Risak (2015), and Warter (2016). Platform work bears characteristics of both dependent employment and self-employment, and establishing employment status for platform workers remains a challenge in Austrian law (Warter, 2016).

## Potential employment statuses

Austrian law contains the employment statuses of *Arbeitnehmer* (employee), *Selbstständiger* (self-employed), and an intermediate category of *arbeitnehmerähnliche Person* (employee-like person). Beginning with employees, neither the term *Arbeitgeber* (employer) nor employee are legally defined under Austrian civil law. Only the employment contract is defined by law. According to the ABGB,<sup>26</sup> an employment contract is characterised by a person committing themselves to provide service to an employer. The *Oberster Gerichtshof* (OGH, Austrian Supreme Court) interprets section 1151 of the ABGB such that the core element of the employment contract is the obligation of the employee to provide the employer services in personal dependence, which is a legal term which consists of different elements, which express that the person who performs the services is not self-determined but externally-determined. Typical criteria for external determination is the determination of time and work place, being subject to control as well as personal and material directives, and the use of the employer's equipment and obligation to report (Karl, 2016; Warter, 2016). In case of disputes, Austrian courts must assess cases individually to determine whether a person is an employee.

No single, uniform definition of 'self-employed' exists in Austrian law (Eurofound, 2009a). Nevertheless, the term is important for social insurance, trade and tax law. The *Einkommenssteuergesetz* (Income Tax Law) provides a list of 'traditional' examples of self-

---

<sup>26</sup> § 1151 ABGB.

employed, including authors, lecturers, and various therapists.<sup>27</sup> Trade law, by contrast, distinguishes different legal forms of self-employment. The most important is the differentiation between self-employed without employees, a partnership of persons, and corporations. The legal form of self-employment has additional impacts on social insurance inclusion. In this context a very complex legal framework applies to self-employed single persons: *Ein-Personen-Unternehmen* (EPU, literally one-person companies) or *Einzelunternehmer* (sole proprietors) are individuals who are self-employed and do not have any subordinate employees (WKÖ, 2016). If EPU hold a trade license, they are members of the WKÖ by provision of law.

*Freie Dienstnehmer* (literally free service takers, but approximately freelancers) are an intermediate category. As discussed, in terms of social security, they are mostly treated as employees. In terms of taxation, however, they are treated like self-employed. Labour law provisions generally do not apply to freelancers, and in principle, they are represented by the ÖGB and AK.

Furthermore, Austrian social insurance law recognises the category of *neue Selbstständige* (new self-employed). New self-employed are typically characterised by utilising their own substantial equipment, whereas freelancers not necessarily have to do so. Another distinction is that new self-employed may subcontract tasks, whereas freelancers cannot (Eurofound, 2009a).

Besides the term *Selbstständige* (self-employed), Austrian labour law recognises the legal status of *arbeitnehmerähnliche Person* (employee-like person). This term refers to people who are personally independent like self-employed, but economically dependent like employees. Legally, employee-like persons are a sub-category of self-employed (Karl, Mazal, 2016; 2016; Warter, 2016; Risak, 2017). Examples of economically dependent people include home workers as defined by the HeimAG, people who receive most of their assignments from essentially a single *Auftraggeber* (contract-giver), and those who rely on the contract-giver for the necessary equipment to carry out their activities (Österreichische Sozialversicherung, 2018).

### Relationships of the three involved parties

Formal relationships in Austrian platform work, and thus employment status of Austrian platform workers, are frequently ambiguous (Lutz and Risak, 2017). Most platforms specify that a platform worker accepts a self-employed status for themselves by agreeing to the general terms and conditions of use. A self-employment relationship may also be established by a *Werkvertrag*<sup>28</sup> (contract for work and service) or a *freier Dienstvertrag* (approximately freelance contract). Both contracts provide a legal basis to perform self-employed work. However, if the person concerned is economically dependent on the platform, they are considered employee-like. This has the consequence that specific labour regulations apply, such as the Equal Treatment Act. In any case, the actual characteristics of the work supersede the contractual designation of employment status.

The contract for work and service and freelance contract give the *Auftragnehmer* (literally task-accepter, or approximately ‘contractor’) significant freedom over the time, place, and manner in which a service is performed (Karl, 2016). In other words, they are personally independent, and their obligation when, where and how to work is not externally determined. The primary difference between *Werkvertrag* and *freier Dienstvertrag* is that the *Werkvertrag* stipulates the delivery of successfully completed and specified work for payment, whereas a *freier Dienstvertrag* only specifies performing a general service, potentially over a specified period of time, dutifully, in exchange for payment. Examples of freelance contracts in

---

<sup>27</sup> § 22 BGBI. Nr. 400/1988, most recently updated with BGBI. I Nr. 105/2017.

<sup>28</sup> § 1151 ABGB.



Austrian platform work include Foodora, whereas platforms using contract for work and service include Clickworker.

A minority of Austrian platform workers are employees by merit of an employment contract, which establishes an employment relationship between platform worker and platform (Fair Crowd Work, 2017d). Two illustrative examples are BOOK A TIGER (BOOK A TIGER, 2018), a cleaning service, and Foodora (Die Zeit, 2017), a food delivery service that utilises bicycle couriers. All cleaners for BOOK A TIGER are employees, while expert interviewees indicated that a minority of couriers working for Foodora are employees. Relatedly, a few scholars have discussed when platform workers could meet criteria for personal dependence on a platform, and thus be classified as an employee. For example, Risak (2015; 2017) and Warter (2016) write that if a platform specifies the timeframe in which a task must be completed, it is indicative of personal dependence, but not necessarily sufficient to prove it. With BOOK A TIGER and Foodora, the relationships between platform and client, and between client and platform worker, are then determined by the general terms and conditions of the platform or a specific service agreement.

The intermediate employment status of employee-like persons could also be applied to Austrian platform workers. Employee-like persons usually provide their work and services on the basis of a *freier Dienstvertrag*. However, this status requires demonstrating economic dependence, and it may be difficult for platform workers to meet the strict criteria for this designation.

#### **Box 5. Implications of employment status**

Several platform-determined interviewees were concerned about their employment status. With the exception of a few particularities concerning scheduling, the work of interviewed employees and freelancers is identical, while remuneration and other benefits – most notably social protection – are quite different. Employees earn €7.6 per hour and €0.60 per delivery, whereas the freelancers receive €4 per hour and €2 per delivery. Thus, freelancers rely more on speedy deliveries to earn their wages – while having less social protection, including no accident insurance coverage for damage to personal property (such as phone and bike). Additionally, several interviewees noted an apparent platform policy to suspend employees or decline to renew their contracts, while increasingly relying on freelancers. The motivation for doing so probably includes the reduced costs associated with freelance contracts. Furthermore, the platform does not appear to be hiring any new employees, while additional freelancers can sign up almost any time.

In other instances, as explored by Lutz and Risak (2017), it is very difficult to determine what type of relationships are being used in practice. The contractual relationships between platform worker and platforms are often unclear, and could be held as bogus self-employment by Austrian courts. In the case of Clickworker, both the contract for work and service and freelance contract can determine the relationship between platform and platform worker (whereas the platform worker and client have essentially no communication or legal relationship). The primary distinction is whether a platform worker is responsible for successful completion of a task (*Werkvertrag*) or for providing a service for a period of time (*freier Dienstvertrag* or even *Arbeitsvertrag* – employment contract). Thus, the formal relationships between platform worker and platform can differ even within the same platform, as illustrated in Box 5.

In other cases where the platform provides a intermediation only, it is possible that a platform worker and a platform have no formal relationship, or that any relationship between the two parties is simply determined by the platform's general terms and conditions. If such case, the client and platform worker may be bound by a *Werkvertrag* or *freier Dienstvertrag* (Lutz and Risak, 2017).

The client's relationship with platforms is hardly covered in Austrian literature, and virtually all discussion is anecdotal. However, there are two different sources of law that might impact the relationship. Due to the fact that the relationships are often contractually determined by the general terms and conditions of the platform which the platform worker must accept to



begin working, the legal requirements which apply on such general terms and conditions must be fulfilled (Warter, 2016). One key requirement in this context is transparency. Therefore, section 864a of the ABGB applies, meaning provisions within the general terms and conditions, which are disadvantageous and unforeseeable for clients, shall not become part of the contract as long as these provisions were not explicitly pointed out to the client. Even more severe requirements regarding the content and the transparency of contracts are provided by the *Konsumentenschutzgesetz* (KSchG, Consumer Protection Act). However, the applicability of the KSchG seems questionable due to the fact that it requires a legal relationship between a business provider and a consumer. While clients may meet this requirement, it is doubtful that self-employed platform workers can be considered customers or consumers of a platform (Warter, 2016).

### **Additional contractual relationships**

One additional consideration in Austrian law is *Arbeitskräfteüberlassung* (AÜG, temporary agency work), which Warter (2016) calls the most important and most discussed case of intermediated labour contracts. In this arrangement, an employer makes their workforce available to another employer for the provision of service (WKÖ, 2017a). However, temporary agency work under Austrian law can only be relevant to platform work in very exceptional cases, such as when platform workers are formally employed and engaged in local work (Risak, 2017).

### **Organisation and representation**

Industrial relations in Austria are based on a close relationship between the representatives of employers, employees and state. Cooperation between these parties is highly institutionalised and covers all important matters of economic and social policy. Still, much of the cooperation occurs at an informal level. In this sense, social dialogue is a highly ingrained aspect of policy making. In fact, collective agreements often suffice for Austria where other countries rely on legislation. Collective agreements almost exclusively take place at sector level and are legally binding across Austria. This is due to the fact that Austrian collective labour law restricts the possibility of individual employers to conclude collective agreements. Thus, registered platforms are bound by sectoral agreements, such as those for the trade group *Personenbeförderungsgewerbe mit Personenkraftwagen* (personal transport business with passenger car) for Uber. The public and private sectors are governed by their own frameworks, and most of the public sector<sup>29</sup> is not subject to collective bargaining.

The main actors in Austrian industrial relations are: the *Österreichische Gewerkschaftsbund* (ÖGB, Austrian Trade Union Federation), which is the umbrella organisation for trade unions; *Arbeiterkammer* (AK, Chamber of Labour); *Wirtschaftskammer Österreich*<sup>30</sup> (WKÖ, Austrian Federal Economic Chambers); and *Landwirtschaftskammer* (LK, Chamber of Agriculture).

For the private sector, the *Arbeitsverfassungsgesetz* (Labour Constitution Act) is the most important legal framework, forming the legal basis for collective agreements, and the tasks and powers of the *Betriebsrat* (works council) (BMASGK, no date). The works council is the basic unit of statutory employee representation, which is required to negotiate with the employer, and has to form when a firm has five or more employees.

---

<sup>29</sup> Public sector representation of employees takes place through the *Personalvertretung* (approximately ‘staff committee’), which exists for the federal government, regional governments, local governments, and public enterprises. Each is subject to particular rules (Allinger, 2011).

<sup>30</sup> Aside from the WKÖ, a voluntary employer organisation – *Industriellenvereinigung* (IV, Federation of Austrian Industry) exists for the manufacturing, transport and energy industries.

The most important instrument for co-determination rights between employees and employer at company level is the *Betriebsvereinbarung* (works agreement) concluded between management and works council (Allinger, 2011). A number of potential types of agreements exist, but for *notwendige Betriebsvereinbarungen* (necessary agreements), the works council and management must agree on a course of action before it is carried out (WKÖ, 2017b).

## Organisation of platform workers

There is no trade union in Austria that specifically targets platform workers as of early 2018. However, platform workers in Austria can be represented depending on their employment status. Employees, including platform workers with an employment contract, as well as *freie Dienstnehmer* according to section 4 (4) ASVG, are members of the AK by provision of law. It is not clear whether dialogue within the Chamber has specifically addressed platform work issues, and interviewees indicated that the reason for this may be that most platform workers are not employees. Self-employed individuals who hold a trade license (and are thus EPU), including platform workers, are members of the Austrian Federal Economic Chambers by provision of law. *Freie Dienstnehmer* are not subject to collective bargaining in Austrian law, which means that platform workers under this status cannot officially organise. New self-employed cannot become members of the AK, but can opt to join the *Österreichischer Gewerkschaftsbund* (ÖGB, Austrian Trade Union Confederation).

### Box 6. Representation

Platform workers were asked about their representation as platform workers. Both interviewed contestants were members of the WKÖ, but neither felt the organisation represented their interests as platform workers. Additionally, they were unsure what the government or social partners could do for them, beyond more specific advice on beginning self-employed work.

Several platform-determined interviewees felt that their platform retaliated against efforts to organise workers. Previously, couriers could use a garage in which to repair their bikes and relax before or after shifts. The platform stopped renting the space, citing cost-saving concerns, but several interviewees felt it was a ‘union-busting’ action. At present, the riders have no shared space to meet except for restaurants (while waiting for orders to be prepared) or at one of the four designated starting locations in Vienna. Several riders noted the need for better representation, as well as equal treatment of the platform’s employees and freelancers.

In spite of Austria’s mandatory membership in employer or employee organisations, freelance platform workers (with a *freie Dienstnehmer* contract) have essentially no mechanism for representation. The same is true of anybody with this type of contract, whether in platform work or the traditional labour market.

Only one works council has been established by the workers of a platform. The Foodora works council is supported through the trade union Vida, which was formed from the merger of three transport and service unions in 2006 (ETUI, 2016) and is part of the Austrian Trade Union Confederation. While works councils may only contain employees as members, the Foodora works council allows the self-employed couriers of Foodora to take part in discussions on an informal basis. An interviewee representing an employee organisation indicated that as of early 2018, the works council had not concluded any agreements with Foodora. However, the works council has been in negotiations with the platform concerning provision of services such as bike repair as well as wages. Additionally, as of early 2018, Vida is in discussions with the WKÖ about how collective agreements for workers might apply to platform workers, specifically those engaged in courier activities and having an employment contract.

The union Vida has also created ‘vidaFlex’, which is an organisation that targets EPU. In an interview with the authors, a social partner representative indicated that vidaFlex may be attractive to only some platform workers, given its relatively high contribution of €300 per year. vidaFlex offers its members benefits such as financial assistance, legal protection and

accident insurance. However, as of early 2018, it is unclear how many platform workers are active in vidaFlex and whether it, or the traditional representative bodies for industrial relations, will form the basis for platform worker representation (vidaFlex, 2018).

Lastly, AK and ÖGB are partner organisations to Fair Crowd Work, a type of watchdog organisation run with German and Swedish trade unions (Fair Crowd Work, 2017a). Fair Crowd Work collects information about platforms and produces a rating system based on the platforms' terms and conditions and worker reviews for online platforms. Additionally, Fair Crowd Work informs Austrian platform workers of their legal rights in an accessible language and lists trade unions they are eligible to join (Fair Crowd Work, 2017b). Fair Crowd Work is also involved with the Frankfurt Declaration, which is a joint statement between several worker organisations and platforms, and is intended to clarify standards of decent work in the platform economy.

## Organisation of platforms

Platforms have not made a concerted effort to organise in Austria as of early 2018. Companies incorporated in Austria, as well as self-employed, are legally obliged to become members of the WKÖ if they hold an Austrian trade licence.<sup>31</sup> However, interviewees indicated that almost all platforms active in Austria are based abroad, primarily for taxation reasons or because they originated abroad. Only a few platforms, notably Foodora, BOOK A TIGER and Uber, appear to have registered in Austria and are members of the WKÖ (Lutz and Risak, 2017).<sup>32</sup>

One effect of Austria's system of representation is that platforms and platform workers registered as EPU are both members of the WKÖ. This has led to discussion between platform workers, platforms, and other self-employed within the WKÖ, rather than between the WKÖ and another representative organisation. Taxi companies in the WKÖ have expressed the view that drivers using Uber need to be regulated as taxi companies in order to establish a level playing field. Drivers using Uber have indicated that they prefer to be covered under the less stringent regulatory framework of limousine services. As of early 2018, this is an ongoing discussion that has not been concluded.

## Conclusions

Platform work is presumed to be a small, growing portion of the Austrian labour market. But the exact size and number of participants are not known. The reliability of the existing estimates is also questionable, due to the varying methodologies and definitions in the literature. Thus, close monitoring of developments would be valuable.

Social partners are particularly involved in the Austrian public and policy debate. Frequently debated themes include a concern for wages and working conditions of platform workers as well as opportunities for flexible work. Social partners have emphasised the potential for platform work to bypass regulations, and create challenges for application of employment law – including taxation and social protection provision. Some traditional employers have argued that platforms create unfair competition.

Austria has no dedicated regulatory framework for platform work, so general frameworks apply. In practice, formal relationships between platforms, platform workers and clients are often ambiguous. Most of the relevant literature discusses similarities and differences between the relationships of platforms and platform workers, and employers and employees. Some argue that the power asymmetry between platform and platform workers could create risks for workers.

---

<sup>31</sup> Exceptions are made for companies in agriculture, the liberal professions, and non-trading public sector (Allinger, 2011).

<sup>32</sup> Uber is registered in Austria as a marketing agency rather than a provider of transportation services.

Austrian employment law already contains a number of employment statuses used for platform work. For example, employee-like workers enjoy additional protections compared to self-employed, and all types of self-employed can access public options for social insurance. More research would help illuminate whether additional action is necessary in this sphere.

The Austrian industrial relations system is marked by mandatory membership in employee and employer organisations, which is only partially aligned with the relations in the platform economy. Indeed, both the platform and the workers may be members of the same employer organisation.

## References

- Bruckner, S. and Krammer, C. (2017), 'Sozialversicherung in der Gig-Economy', in Lutz, D. and Risak, M. (eds.), *Arbeit in der Gig-Economy*, ÖGB-Verlag, Vienna, pp. 254-301.
- Bundesministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz (BMASGK) (no date), 'Labour Law', available at [https://www.sozialministerium.at/siteEN/Labour\\_Disabilities/Labour\\_Law](https://www.sozialministerium.at/siteEN/Labour_Disabilities/Labour_Law).
- Bundesministerium für Finanzen (BMF) (2018a), 'Einkommensteuer für die Einkünfte aus einem freien Dienstvertrag oder Werkvertrag', available at <https://www.bmf.gv.at/steuern/arbeitnehmerpensionisten/dienstvertrag-werkvertrag/einkommensteuer-einkuenfte-aus-freien-dienstvertrag-werkver.html>.
- Bundesministerium für Finanzen (BMF) (2018b), 'Umsatzsteuervoranmeldung, Pflicht zur Abgabe einer Steuererklärung und Veranlagung', available at <https://www.bmf.gv.at/steuern/selbststaendige-unternehmer/umsatzsteuer/ust-voranmeldung-erklaerungspflicht-veranlagung.html>.
- Cheselina, O. (2017), 'Platform Economy as a Challenge for Social Security in Germany', Max Planck Institute for Social Law and Social Policy, Munich.
- De Groen, W.P. et al (2017), 'The Impact of the Platform Economy on Job Creation', *Intereconomics*, Vol. 52, No. 6, pp. 345–351.
- Delivery Hero (2015), 'Delivery Hero acquires 100% of Foodora from Rocket Internet', available at <https://www.deliveryhero.com/delivery-hero-acquires-100-of-foodora-from-rocket-intern%E2%80%8Bet%E2%80%8B/>.
- Eurofound (2004), 'Arbeitgeberverbände in Europa', Dublin.
- Eurofound (2009a), 'Austria: Self-employed workers', Dublin.
- Eurofound (2009b), 'Austria: Wage formation', Dublin.
- Eurofound (2015), 'New Forms of Employment', Publications Office of the European Union, Luxembourg.
- Eurofound (2018 - forthcoming), 'Digital age: Employment and working conditions of selected types of platform work', Publications Office of the European Union, Luxembourg.
- Europe Integration Foreign Affairs (2018), 'The Austrian Presidency of the Council of the European Union, 2nd half of 2018', available at <https://www.bmeia.gv.at/en/european-foreign-policy/european-policy/eu-presidency-2018/>.
- European Agency for Safety and Health at Work (EU-OSHA) (2018), 'National Focal Points | Austria', available at <https://osha.europa.eu/en/about-eu-osha/national-focal-points/austria>.
- European Commission (2016), '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', retrieved from <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2016:356:FIN>
- European Commission (2016), 'Flash Eurobarometer 438: The use of collaborative platforms', Directorate-General for Communication, Brussels.
- European Trade Union Institute (ETUI) (2016), 'Trade Unions', available at <https://www.worker-participation.eu/National-Industrial-Relations/Countries/Austria/Trade-Unions>.
- Fabo, B.; Beblavý, M.; Kilhoffer, Z. and K. Lenaerts (2017), *Overview of European Platforms: Scope and Business Models*, study performed for JRC.
- Fair Crowd Work (2017a), 'Fair Crowd Work - Shedding light on the real work of crowd-, platform-, and app-based work', available at <http://faircrowd.work/>.
- Fair Crowd Work (2017b), 'Kennen Sie Ihre Rechte?', available at <http://faircrowd.work/de/unions-for-crowdworkers/know-your-rights/>.
- Goricnik, W. and Riesenecker-Caba, T. (2017), 'Datenschutz in der Gig-Economy | Spezifische Datenschutz-Problemlagen bei CrowdworkerInnen', in Lutz, D. and Risak, M. (eds.), *Arbeit in der Gig-Economy*, ÖGB-Verlag, Vienna, pp. 236-252.

- Hauptverband der österreichischen Sozialversicherungsträger (2017), *Beitragsrechtliche Werte in der Sozialversicherung 2018*, Hauptverband der österreichischen Sozialversicherungsträger, Vienna.
- Herr, B. (2017), ‘Riding in the Gig-Economy: An in-depth study of a branch in the app-based on-demand food delivery industry’, AK Wien, Vienna.
- Huws, U. and Joyce, S. (2016), *Österreichs Crowdsworkszene | Wie geht es Menschen, die über Online-Plattformen Arbeiten?*, AK Wien, Vienna.
- Karl, B. (2016), ‘Plattformen als Verbindung zwischen Arbeitenden und Leistungsempfängern’, in Tomandl, R. and Risak, M. (eds.), *Wie bewältigt das Recht Moderne Formen der Arbeit?*, New Academic Press, Vienna.
- L&E Global (2017), ‘Employment Law Overview 2017 | Austria’, L&E Global, Brussels.
- Lutz, D. and Risak, M. (eds.) (2017), *Arbeit in der Gig-Economy*, ÖGB Verlag, Vienna.
- Mazal, W. (2016), ‘Arbeitnehmerähnliche Selbständige’, in Tomandl, T. and Risak, M. (eds.), *Wie bewältigt das Recht Moderne Formen der Arbeit?*, New Academic Press, Vienna.
- Österreichische Sozialversicherung (2018), ‘Dienstnehmer – Merkmale’, available at <https://www.sozialversicherung.at/portal27/esvportal/content?contentid=10007.683949&viewmode=content>.
- Risak, M. (2015), ‘Crowdwork - eine erste rechtliche Annäherung an eine "neue" Arbeitsform’, *Zeitschrift für Arbeitsrecht und Sozialrecht*, Vol. 1, pp. 11-19.
- Risak, M. (2017), ‘(Arbeits-)Rechtliche Aspekte der Gig-Economy’, in Lutz, D. and Risak, M. (eds.), *Arbeit in der Gig-Economy*, ÖGB-Verlag, Vienna.
- The Local (2014), ‘Uber threat to Vienna taxi profits’, 3 September.
- vidaFlex (2018), ‘vidaFlex’, available at <http://www.vidaFlex.at/>.
- Warter, J. (2016), *Crowdwork*, ÖGB-Verlag, Vienna.
- Wirtschaftskammer Österreich (WKÖ) (2016), ‘Ein-Personen-Unternehmen (EPU) in Österreich’, available at <https://www.wko.at/service/zahlen-daten-fakten/EPU.html>
- Wirtschaftskammer Österreich (WKÖ) (2017a), ‘EU-Datenschutz-Grundverordnung (DSGVO): Das Datenschutz-Anpassungsgesetz 2018’, available at <https://www.wko.at/service/wirtschaftsrecht-gewerberecht/eu-dsgvo-datenschutz-anpassungsgesetz-2018.html>.
- Wirtschaftskammer Österreich (WKÖ) (2017b), ‘Betriebsvereinbarung’, available at <https://www.wko.at/service/arbeitsrecht-sozialrecht/Betriebsvereinbarung.html>.
- Wirtschaftskammer Österreich (WKÖ) (2018a), ‘Die Umsatzsteuervoranmeldung (UVA) | Die wichtigsten Infos für Unternehmen’, available at [https://www.wko.at/service/steuern/Die\\_Umsatzsteuervoranmeldung\\_\(UVA\).html](https://www.wko.at/service/steuern/Die_Umsatzsteuervoranmeldung_(UVA).html).
- Wirtschaftskammer Österreich (WKÖ) (2018b), ‘Neue Selbständige | Betroffener Personenkreis - Beginn und Ende der Pflichtversicherung - Versicherungsgrenzen - Höhe der Beiträge’, available at [https://www.wko.at/service/arbeitsrecht-sozialrecht/Neue\\_Selbstaendige.html](https://www.wko.at/service/arbeitsrecht-sozialrecht/Neue_Selbstaendige.html).

## List of abbreviations

ABGB	Allgemeines bürgerliches Gesetzbuch (General Civil Code)
AK	Arbeiterkammer (Chamber of Labour)
AlVG	Arbeitslosenversicherungsgesetz (Unemployment Insurance Code)
AngG	Angestelltengesetz (White Collar Act)
ArbVG	Arbeitsverfassungsgesetz (Labour Constitution Act)
ASchG	ArbeitnehmerInnenschutzgesetz (Occupational Health and Safety Act)
ASVG	Allgemeines Sozialversicherungsgesetz (General Social Insurance Code)
AÜG	Arbeitskräfteüberlassungsgesetz (temporary agency work)
AVRAG	Arbeitsvertragsrechtsanpassungsgesetz (Employment Contract Law Amendment Act)
AZG	Arbeitszeitgesetz (Labour Time Act)
BEinstG	Behinderteneinstellungsgesetz (Participation Act of People with Disabilities)
B-BSG	Bundes-Bedienstetenschutzgesetz (Federal Civil Servant Protection Law)
BGBI	Bundesgesetzblatt (Federal Law Gazette)
BMASGK	Bundesministerium für Arbeit, Soziales, Gesundheit und Konsumentenschutz (Federal Ministry for Work, Social Affairs, Health and Consumer Protection)
DHG	Dienstnehmerhaftpflichtgesetz (Employees' Liability Act)
EFZG	Entgeltfortzahlungsgesetz (Continuation of Remuneration Act)
EPU	Ein-Personen-Unternehmen (one-person companies)
ETUI	European Trade Union Institute
EU	European Union
EU-OSHA	European Agency for Safety and Health at Work
GDPR	General Data Protection Regulation
GewO	Gewerbeordnung 1859 (Trade Regulation Act)
GIBG	Gleichbehandlungsgesetz (Equal Treatment Act)
GSVG	Gewerbliches Sozialversicherungsgesetz (Trade Social Insurance Code)
HeimAG	Heimarbeitengesetz (Home Work Law)
KSchG	Konsumentenschutzgesetz (Consumer Protection Act)
LK	Landwirtschaftskammer (Chamber of Agriculture)
LSD-BG	Lohn- und Sozialdumping-Bekämpfungsgesetz (Act to Combat Wage and Social Dumping)

Nr.	number
ÖGB	Österreichischer Gewerkschaftsbund (Austrian Trade Union Federation)
OGH	Oberster Gerichtshof (Austrian Supreme Court)
SPÖ	Sozialdemokratische Partei Österreichs (Social Democratic Party of Austria)
VAT	value-added tax
WKÖ	Wirtschaftskammer Österreich (Austrian Federal Economic Chambers)



## Annex 1. Platforms mentioned in text

Platform	Platform work type
<a href="#">BOOK A TIGER</a>	<b>On-location platform-determined</b> routine work
<a href="#">Clickworker</a>	Online moderately skilled click-work
<a href="#">Foodora</a>	<b>On-location platform-determined</b> routine work
<a href="#">GoPillar</a>	<b>Online contestant</b> specialist work
<a href="#">Lieferservice.at</a>	<b>On-location platform-determined</b> routine work
<a href="#">MyHammer</a>	On-location client-dependent moderately skilled work
<a href="#">Taxify</a>	<b>On-location platform-determined</b> routine work
<a href="#">Uber</a>	<b>On-location platform-determined</b> routine work
<a href="#">Uber Eats</a>	<b>On-location platform-determined</b> routine work

*Note: Abbreviated version appears in **bold***

WPEF18053/EN

---

**The European Foundation for the Improvement of Living and Working Conditions (Eurofound) is a tripartite European Union Agency, whose role is to provide knowledge in the area of social, employment and work-related policies. Eurofound was established in 1975 by Council Regulation (EEC) No. 1365/75, to contribute to the planning and design of better living and working conditions in Europe.**