# Workshop of the European Platform tackling undeclared work:
Challenges and approaches for tackling undeclared work on digital labour platforms

Dubrovnik, 8-9 October 2024

EXECUTIVE SUMMARY

This Platform workshop provided participants with an opportunity to deepen their understanding of undeclared work on digital labour platforms and discuss policy measures and mechanisms that could be used to prevent and tackle undeclared work in this context. The workshop brought together 41 participants, including representatives of labour inspectorates, tax and social security institutions, national social partners, and governmental organisations from 14 Member States, as well as EU-level social partners, representatives of European and other international institutions, and of digital labour platforms. Representatives of the European Labour Authority (ELA), thematic experts, and members of the Platform support team also attended the event.

Opening session and tour de table
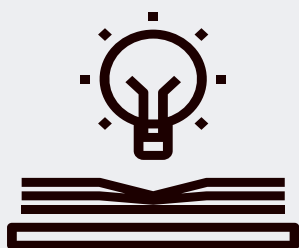
Representatives of ELA welcomed participants and expressed their gratitude to Croatian colleagues for hosting the event. After acknowledging Croatia's role as a proactive EU Member State in regulating platform work, it was clarified that the workshop would not explore employment status misclassification in digital labour platforms, saving such discussions for the Platform tackling undeclared work's plenary meeting in April 2025.

A welcome speech was given by a representative of the Ministry of Labour, Pension System, Family and Social Policy from the host country (Croatia) where a **new legislative framework** to tackle **undeclared work on digital labour platforms** came into force on 1 January 2024. The new law aims to ensure that platforms operate in Croatia within the boundaries of the law while making sure that all platform workers have the same rights as other workers. The speech highlighted the challenges of addressing undeclared work on digital platforms, emphasising the importance of **digitalisation** and **data sharing** as essential tools to tackle this issue.

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Introduction to the theme of the workshop
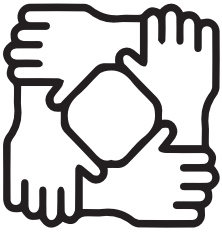
The thematic presentation introduced the topic by focussing on the concept of 'digital labour platforms' and their characteristics. It was stressed that platforms create a **triangular relationship** involving (at least) three actors: the service provider, the consumer, and the technology platform which intermediates the relationship. It was explained that the concept of '**platform leakage/disintermediation**' refers to consumers bypassing the platform to directly engage with service providers, circumventing the technology that initially facilitated the connection. Finally, the importance of **data sharing** and **cooperation among various authorities** was emphasised to effectively tackle undeclared work on digital labour platforms.

Presentation from the European Commission on the Platform Work Directive

A representative of the European Commission provided an overview of the adopted **Platform Work Directive** focused on enhancing transparency to improve enforcement. Among other issues, the following were covered: **intermediaries**, ensuring that platform workers with intermediary contracts receive the same protection as those with direct contracts (Article 4); **transparency**, requiring platforms to declare work/make information available to competent authorities and provide information on automated monitoring and decision-making systems (Article 9); and **limitations on data processing** (Article 7).

Participants sought clarification on several points, including the lawfulness of biometric identification under GDPR, and the obligations of digital platforms to keep and share data about intermediaries.

Presentation from the host country on the legal framework of platform work in Croatia

An overview of the new legislative framework on platform work in Croatia was provided by a representative of the Ministry of Labour, Pension System, Family and Social Policy. Key aspects of the new legislation include the introduction of **joint and several liability** schemes for digital labour platforms and intermediaries and a **presumption of employment relationship** for persons performing platform work. It was explained that the legal presumption does not apply to individuals whose earnings from digital labour platforms do not exceed 60% of the gross amount of three-monthly minimum wages within a single calendar quarter.

Questions sought clarification about the 60 percent income threshold and the circumstances under which such liability ceases to exist, and how that works in practice.

Session I: Undeclared work on digital labour platforms: characteristics of undeclared work and preventative measures
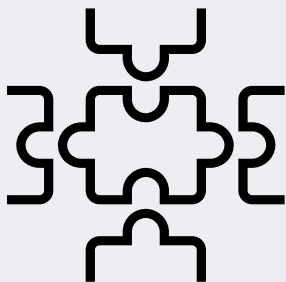
Two presentations analysed the characteristics of undeclared work conducted through digital labour platforms and preventative measures aimed at facilitating tax compliance in digital labour platforms

▸ **International Labour Organization (ILO) representative** discussed informal employment in the platform economy and the potential room for new international labour standards. Methods used outside the EU to address informality were presented, such as social **protection incentives** (e.g. Republic of Korea), **awareness raising campaigns** by national competent authorities on their respective websites/social media (e.g. Argentina, Canada, Australia) and by platforms (e.g. Canada, Japan, Malaysia) and **behavioural science approaches**.

▸ **Estonia** presented the **entrepreneur account** that allows (private) individuals to engage in business without having to register a company. This solution tackles undeclared work by simplifying the process: income is taxed at the source and social security contributions withheld, eliminating the need for the account owner to handle reporting. Designed to be bureaucracy-free and affordable, the system ensures the state receives revenue efficiently.

Questions directed to the ILO sought clarification on awareness raising campaigns and its impact. Meanwhile questions to Estonia focused on whether the entrepreneur account could be used for additional jobs alongside permanent employment. It was clarified that while it can be used for extra jobs, the time spent on these additional jobs does not contribute towards pension calculations.

Working Group Discussion I: Sharing learning on the characteristics of undeclared work on digital labour platforms and on preventative measures

During the working group discussion, participants shared learning on the characteristics of undeclared work on digital labour platforms, as well as challenges and strategies for preventing it. Key points included:

▸ **Identity fraud** and **rented identities**, whereby multiple people use the same account, are a significant problem, especially with **on-location work**.

▸ **Drivers** of identity fraud are linked to migration issues and work permits.

▸ **Biometric identification** should be made possible to determine workers' identity and avoid rented identities.

▸ **Platform leakage** is more common for **on-location work**.

▸ **Intermediaries**, such as letterbox companies, are becoming increasingly common.

Working Group Discussion I: Sharing learning on the characteristics of undeclared work on digital labour platforms and on preventative measures – continued

- **Preventative measures** which are used for the broader economy, can also be used to prevent undeclared work on digital labour platforms. These include measures such as targeted awareness campaigns and liability schemes for subcontracting chains.

- **Collective bargaining** in some countries includes agreements with platforms to prevent undeclared work.

- **Information** for third-country nationals **(TCNs)** should be provided in their national language and it is crucial to prevent abuses.

Session II: Using data to detect/trace undeclared work on digital labour platforms
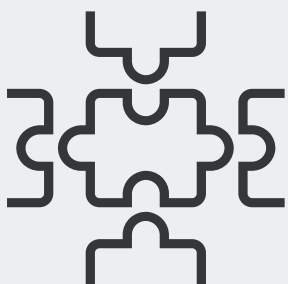
Two Member States presented mechanisms that can be used to detect, trace, and measure undeclared work on digital labour platforms.

- **Croatia** presented the new legal framework on platform work which led to the creation of a **unified electronic record of work (JEER) system** to collect real-time comprehensive data from platforms. This system enables cross-checking with other administrative bodies, addressing undeclared work and improving inspections' efficiency. It gathers detailed information such as deliveries, earnings, and work permits, and flags suspicious activities after risk assessment. Initial successes include better-organised inspections and reduced need for physical checks. Future improvements aim to enhance data collection and risk analysis.

- **Cyprus** explained that over the past decade the government has worked with digital labour platforms and intermediaries to address issues such as unregistered employees, forged ID documents, and shared mobile app IDs. This collaboration led to **notices of infringement** and regular **meetings** to understand platform operations. **Data** from various departments, platforms, and intermediaries, including personal data, employment contracts, and working hours, is collected to check compliance with wage and working hour laws, and verify accurate social insurance contributions.

Participants sought further clarifications about the JEER system in Croatia and its functioning.

Working Group Discussion II: Sharing learning on the use of data to detect/trace/measure undeclared work on digital labour platforms

During the working group discussion, participants shared learning on the use of data to detect, trace and measure undeclared work on digital labour platforms. Key points included:

▸ **Data sharing** is essential to tackle undeclared work on digital labour platforms. However, the collaboration with different competent authorities is country specific.

▸ **Not all data is necessary.** To improve efficiency, competent authorities should determine which specific information is required and from which authority it should be obtained.

▸ **Digitalisation** is fundamental, but it requires a shift in perspectives and political willingness to implement it.

▸ Different authorities may have common problems from various perspectives, but these issues are interrelated. When all data is cross-referenced, the same underlying problem becomes apparent. The challenge lies in communicating with IT personnel to **configure the system according to the specific needs.**

▸ **Analysis and risk assessment based on data shared by platforms with enforcement authorities** when the Directive is transposed will be key to targeted inspections, however, complaints and the role of trade unions remain key to identifying where non-compliance is found.

Perspectives from social partners and representative bodies on tackling undeclared work on digital platforms
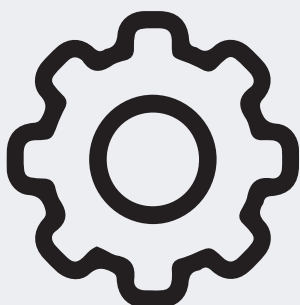
▸ A representative from the food delivery platform **Wolt Croatia** explained the challenges they faced when starting operations and how their collaboration with the State Inspectorate and the Ministry of Labour, Pension System, Family and Social Policy led to the adoption of the new legal framework allowing them to keep operating in Croatia within the boundaries of law.

▸ A representative of the **Union of Autonomous Trade Unions of Croatia (SSSH)** highlighted Union's concerns with the new legislative framework for platform work. Key issues include the unclear legal status of 'aggregators' (intermediaries), and the 60 percent income rule, which seems to conflict with labour regulations. Other issues include the definition of an 'employer', which can be either the platform or the 'aggregator' and the electronic tracking of platform work, which lacks detail, making it difficult to identify workers.

Session III: Policy approaches and examples of good practices by the enforcement authorities for tackling undeclared work on digital labour platforms
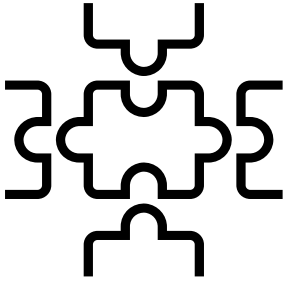
Two Member States presented their policy approaches and good practices for tackling undeclared work on digital labour platforms.

▶ **Italy** presented a groundbreaking inspection campaign on **food delivery platforms** conducted in Milan, marking a significant milestone as the only inspection of its kind. Since 2015, Italian law has applied rules for dependent work to collaboration agreements, and in 2019, this was extended to digital platforms. Based on Article 2 of Legislative Decree 81/2015 and the notion of 'hetero-organisation', inspections concluded that workers were collaborators, not self-employed persons. In October 2023, the Court of Milan upheld these conclusions in its rulings against Uber Italy Srl and Deliveroo Italy.

▶ **Poland** reported their experiences and challenges in conducting inspections of persons performing platform work. In 2019, labour inspectors conducted comprehensive inspections of **Uber-affiliated entities** across Poland, in cooperation with the Border Guard, Police, and Road Transport Inspectorate. Challenges included difficulties in communicating with workers due to language barriers, many TCNs claiming that they were not employees', the inability to stop riders without company sign affiliations, which hampered effectiveness. The two representatives suggested the need of legislative changes in order to conduct more effective inspections .

Working Group Discussion III: Sharing learning on policy approaches and good practices by the enforcement authorities that have been adopted for tackling undeclared work on digital labour platforms

During the working group discussions, participants shared learning on policy approaches, good practices, sectors where digital labour platforms play a mediating role, and challenges for tackling undeclared work on digital labour platforms. Key points included:

▶ **Cooperation with all stakeholders** including enforcement agencies, platforms, social partners, and NGOs is needed to tackle undeclared work on digital labour platforms effectively.

▶ **Legislative frameworks need to be adapted** to new forms of work for labour inspectors to conduct inspections effectively.

▶ Challenges in accessing **private homes** to perform inspections (e.g. inspecting a home where cleaning services are provided).

▶ **Lack of physical and fixed** location of work for platform workers. Without a fixed workplace, inspectors cannot easily locate and visit workers to ensure compliance with labour laws. This makes it harder to verify working conditions and address any violations.

▶ The **triangular relationship** and the increased use of **intermediaries** pose challenges for labour inspectorates.

▶ The **delivery and taxi sector** were undoubtedly the ones that received the most attention of participants, but considering the definition given by Platform Work Directive to what a digital platform is, **other sectors may be affected** (e.g. cleaning, maintenance and repair, care, or parcel delivery sector).

Closing remarks

The closing remarks highlighted the challenges labour inspectors face in addressing undeclared work on digital labour platforms due to the rapid changes in business practices, lack of adapted legal frameworks, and outdated systems. The importance of interinstitutional cooperation, data sharing, digitalisation, and preventative measures was emphasised to tackle undeclared work on digital labour platforms effectively.

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