Providing adequate and sustainable social protection for workers in the gig and platform economy

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Contents

1. Introduction

The vulnerability of platform workers during the COVID-19 crisis highlighted the need to address the significant social protection gaps, including their lack of access to unemployment insurance and job retention schemes, sickness benefits and health protection.[1] Providing adequate and sustainable social protection to this growing group of workers is essential not only for the workers themselves, but also to safeguard and promote the efficiency of the labour market and fair competition. It is therefore timely that the Issue Note[2] prepared by the Presidency calls upon the EWG to provide "recommendations on ways to extend social protection to workers in the gig and platform economy".

The G20 agreed on the priority to ensure strong, resilient and sustainable social protection for all, including platform and gig workers.[3]

- In the Leader's Declaration of November 2020, the G20 reiterated the commitment to ensure "access to comprehensive, robust, and adaptive social protection for all, including those in the informal economy".
- Adopted at the same meeting, the *G20 Policy Options for Adapting Social Protection to Reflect the Changing Patterns of Work* (2020) highlighted the importance of correct classification of employment status for ensuring adequate social protection for all.[4]
- In 2021, the G20 Labour and Employment Ministers committed to making social protection systems "adequate and accessible to all, paying particular attention to temporary or part-time workers, low-wage, self-employed, migrants and informal workers", with the aim to "make social protection adequate, inclusive, sustainable, effective, and accessible to all", especially with a view to labour market and societal transformations under way.[5]
- The *"G20 Policy Principles to ensure access to adequate social protection for all in a changing world of work"* (2021) point to the need to "consider extending contributory schemes to those self-employed whose activity is organised and/or coordinated by an employer or by a digital platform as well as to other self-employed", and to "build up social security entitlements and enhance portability across different employment statuses, sectors and countries, with a particular attention to [...] platform workers.[6]

Two complementary sets of G20 policy principles also provide important guidance for gig and platform workers:

- The "*G20 Policy Options to enhance regulatory frameworks for remote working arrangements and work through digital platforms*" (2021) include a commitment to "promote access to adequate social protection for all workers on digital platforms".[7]

[1] OECD. 2020. 'What Have Platforms Done to Protect Workers during the Coronavirus (COVID 19) Crisis?'

[2] Government of India: G20 Employment Working Group Issue Note, December 2022.

[3] This commitment responds to the resolution and conclusions adopted by the International Labour Conference in June 2021, stating that member States should "secure the necessary legal certainty for workers and employers, ensuring the correct classification of employment relationships and adequate social protection for workers in all types of employment. Resolution and Conclusions Concerning the Second Recurrent Discussion on Social Protection (Social Security), 109th Session of the International Labour Conference, 2021.

[4] Leaders Declaration, Riyadh summit, 21 November 2020; G20 Labour and Employment Ministerial Declaration, virtual meeting, 10 September 2020, chapeau and Annex 2.

[5] G20 Labour and Employment Ministerial Declaration, Catania, 23 June 2021, Annex 2.

[6] G20 Labour and Employment Ministerial Declaration, Catania, 23 June 2021, Annex 2.

[7] G20 Labour and Employment Ministerial Declaration, Catania, 23 June 2021, Annex 3.

- The "*G20 Policy Principles on Adapting Labour Protection for More Effective Protection and Increased Resilience for All Workers*" (2022) include important commitments to reinforce labour protection for workers on digital platforms.[8]

These elements reflect a shared vision among the G20 countries to promote inclusive and sustainable social protection systems, including floors, for all workers, including platform workers.[9]

Building on these previous G20 deliberations and background papers on related topics[10], this background paper reviews country and regional experiences and lessons learnt on extending adequate and sustainable social protection to workers on digital labour platforms, with due attention to country contexts, fiscal viability and long-term sustainability. This is an important element of policies to ensure adequate social protection for workers in all types of employment, and to build universal social protection systems, including floors.[11]

At the same time, the paper highlights the importance of social security as part of a broader set of policy mechanisms to build the capabilities of workers to engage in today's and tomorrow's world of work, including for disadvantaged categories of workers. This includes the close interrelationship of social security, and in particular its financing, with labour protection, as well as its complementarity with skills development, which are essential for protecting workers' rights and for promoting decent and productive employment. Social security and labour market flexibility are not contradictions – to the contrary, social security is one of the elements that allows to ensure decent work in increasingly flexible labour markets.

▶ 2. Social protection gaps among platform workers

Many studies show that platform workers, whether they work in situ or online[12], tend to have less coverage by social protection schemes compared to other workers.[13] This is largely due to the fact that most platform workers have so far (rightly or wrongly) been categorized by the platforms as self-employed workers, and that the latter usually enjoy no or less favourable access to social protection systems (often only eligible to voluntary coverage) and smaller benefit packages (exclusion from certain contingencies such as unemployment or employment injury) than dependent employees. In addition, the effective coverage of platform workers, whether employed or self-employed and similar to other difficult-to-cover groups, requires overcoming a number of challenges related to ease of access, data transfer, awareness and information and portability.

An ILO survey shows that online platform workers earn low wages, with majority of workers (66 per cent) earning less than average wages (US$3.4).[14] In addition, the social protection coverage is low as only about 40 per cent of online platform workers have health insurance, less than 15 per cent have protection in the

[8] G20 Policy Principles on Adapting Labour Protection for More Effective Protection and Increased Resilience for All Workers, 2022.

[9] G20 Labour and Employment Ministerial Declaration, Catania, 23 June 2021, Annex 2.

[10] ILO, ISSA, and OECD (2021). Beyond COVID-19: Towards More Inclusive and Resilient Social Protection Systems (Paper Prepared for the 1st Employment Working Group Meeting under the 2021 Italian Presidency of the G20); ILO and OECD (2020) Ensuring Better Social Protection for Self-Employed Workers, Paper Prepared for the G20 Virtual EWG Meeting, Riyadh, 8 April 2020; ILO and OECD (2020) Policy Principles and Options for Ensuring Better Social Protection for Self-Employed Workers, Prepared for the 2nd Employment Working Group Meeting under the 2020 Saudi Arabian Presidency of the G20; ILO and OECD (2020): The Impact of the COVID-19 Pandemic on Jobs and Incomes in G20 Economies; ILO and OECD (2018) Promoting Adequate Social Protection and Social Security Coverage for All Workers, Including Those in Non-Standard Forms of Employment, Paper Prepared for the G20 EWG Meeting, Buenos Aires, 20-21 February 2018.

[11] ILO, Resolution and Conclusions Concerning the Second Recurrent Discussion on Social Protection (Social Security), 109th Session of the International Labour Conference, 2021, para. 13(j).

[12] Following the terminology used for the ILO 2022 *Decent work in the platform economy* report , this paper distinguishes between work provided in situ (locally), for example by ride-hailing or delivery platforms, and work provided online, for example by crowdwork platforms.

[13] For example OECD, *The Future of Social Protection: What Works for Non-Standard Workers?*, 2018 ; ISSA, *Social Security for the Digital Age: Addressing the New Challenges and Opportunities for Social Security Systems*, 2019; ILO, *World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work*, 2021.

[14] ILO, *World Employment and Social Outlook: The role of digital platforms in transforming the world of work*, 2021.

case of work accidents and unemployment, and about 20 per cent have protection for old age, and across all branches, women have less access to social protection benefits compared to men (see table 1). The survey also showed that a higher proportion of workers in developed countries are protected compared to those in developing countries.

The same ILO survey has also shown that, where online platform workers are covered by social protection, this is often because they had contributed to social insurance through past or other current employment, because they were covered through tax-financed programmes or through family members.[15] The lack of recognition of their economic activity on the platform for social security purposes places greater demands on other financing sources, thereby raising questions around sustainability and equity, in the financing of social protection systems, as well as fair competition among enterprises.[16]

▶ **Table 1: Proportion of respondents on platforms covered by social protection benefits, by development status, worker's sex and type of platform**

	Health insurance	Employment injury	Unemployment insurance	Disability insurance	Pension
Online platforms					
Total	41	15	12	12	20
Developed countries	61	17	17	15	35
Developing and emerging countries	43	18	9	7	23
Male	42	18	13	12	21
Female	39	11	10	10	14
Has other job	45	17	14	13	26
No other job	37	12	10	10	14
Freelance	16	1	2	2	6
Competitive programming	9	6	4	2	6
Microtask	61	21	16	13	35
In situ platforms					
Taxi	51	27	5	4	18
Delivery	53	31	5	6	17

Source: ILO. 2021. World Employment and Social Outlook 2021: The Role of Digital Labour Platforms in Transforming the World of Work.

[15] ILO, *World Employment and Social Outlook: The role of digital platforms in transforming the world of work*, 2021.

[16] ILO, *Decent work in the platform economy*, Reference document for the Meeting of experts on decent work in the platform economy, 2022; C. Behrendt, Q. A. Nguyen, and U. Rani. 2019. 'Social Protection Systems and the Future of Work: Ensuring Social Security for Digital Platform Workers'. *International Social Security Review* 72 (3): 17–41.

Likewise, evidence on workers on in-situ platforms (taxi and delivery workers) also highlight significant social protection gaps. Only slightly more than half of them are covered by health insurance, less than one third is protected in case of work injury, and less than one fifth is covered for old age pensions.

This evidence highlights the urgent need to ensure adequate coverage for platform workers in a way that is adapted, sustainable and equitable.

▶ 3. The bigger picture: regulating gig and platform work

Ensuring adequate social protection for platform and gig workers is closely linked to broader issues related to the regulation of these forms of work. As highlighted by the G20 in previous discussions, the correct classification of employment status is one central element in this endeavour (see section 3.1). Likewise, broader issues around employment protection (section 3.2) and ensuring the transparency of algorithms to ensuring workers' rights (section 3.3) are critical in this respect.

3.1 Preventing misclassification of workers and curbing disguised employment

In most legal systems, the nature of labour and social protection is intrinsically linked to the dependent or independent nature of employment. Ascertaining the proper employment status of platform workers is therefore essential as it has bearings for whether, how and to what extent, these workers will enjoy social protection, but also labour protection, which includes employment protection, minimum wage, occupational safety and health and the right to collective bargaining.[17] In this regard, the Employment Relationship Recommendation, 2006 (No. 198) provides guidance for the question of classification of platform workers. It is based on the principle of the primacy of facts over the qualification that the parties may have given to their agreements. It calls on ILO member States to take measures to facilitate the determination of the existence of an employment relationships, to develop effective measures to remove incentives to disguise an employment relationship and ensure that an employment relationship can be effectively identified when transnational services are provided.[18]

The absence of a clear legal labour and social protection framework applicable to work on digital platforms, has given rise to an important number of labour related judicial disputes and case-law with obvious consequences in terms of delaying legal certainty and predictability. Also, even when a judicial decision became final in a given case, this did not necessarily entail that it could automatically be transposed with the exact same outcome for all other digital platforms operating in a given country as they each have their specificities, including when it comes to concluding work arrangements. In cases where court decisions reclassified workers as employees, this heavily impacted their labour protection (minimum wages, working hours, etc.) but, importantly, also these workers' access to social protection. So far, all of these judicial decisions have related to *in situ* platform work with decisions sometimes confirming the self-employed nature and sometimes reclassifying platform workers as employees. It is not to be excluded, however, that decisions related to "online" work will soon also follow suit.[19]

In the *G20 Policy Options for Adapting Social Protection to Reflect the Changing Patterns of Work* (2020) (see Box 1). Ministers agreed to promote the correct classification of workers' employment status. Possible measures to this effect include raising awareness among workers and employers for existing regulations and how they apply to them, reducing incentives for misclassification and providing options for workers choosing to

[17] ILO, OECD, *Towards more effective labour protection for all workers and increased resilience of the economy*. Paper prepared for the Employment Working Group under the Indonesian G20 Presidency, 2022; OECD. 2019. *OECD Employment Outlook 2019: The Future of Work*.

[18] ILO Employment Relationship Recommendation, 2006 (No. 198)

[19] For more detail, including specific court rulings, see ILO, *Decent work in the platform economy,* Reference document for the Meeting of experts on decent work in the platform economy, 2022.

be self-employed to be classified as such. Ministers also agreed to ensure that the decision on the employment status of workers is made in a quick, fair and clear manner, that the procedure for challenging such a decision is simple, quick and affordable for both workers and employers, and that labour inspectorates are able to adequately and effectively monitor and detect breaches.

▶ Box 1: Policy Options for Adapting Social Protection to Reflect the Changing Patterns of Work, Annex 2 of the G20 Labour and Employment Ministers Ministerial Declaration, 2020 (extract)

Building on previous G20 commitments, including Labour and Employment Ministerial Declarations, we endorse the following policy options to make progress towards our commitment to providing access to adequate social protection for all, regardless of employment status, subject to national circumstances, recognizing that currently, the link between employment classification and social protection coverage varies between countries.

We will promote the correct classification of workers' employment status by:

- Providing access to information for employers and workers to help ensure that they are aware of and understand how existing regulations on employment classification and status apply to them.
- Reducing incentives for employers and workers to incorrectly classify employment relationships as self-employment.
- Providing clarity and options for workers choosing to be self-employed to be classified as such, in accordance with national classification systems.
- Reducing the size of the "grey zone" between self-employment and dependent employment by providing clarification to workers and employers regarding their rights and responsibilities.
- Ensuring that the relevant authorities take quick, fair and clear decisions that reduce uncertainties regarding employment status for both employers and workers.
- Ensuring that public services, such as registration of workers with social insurance schemes, are as easy and as effective as possible, and at low cost, including through the use of adequate online tools.
- Establishing a simple, quick, and affordable procedure for challenging decisions on employment status for both workers and employers, subject to national circumstances.
- Ensuring that competent authorities, including labor inspectorates, are able to adequately and effectively monitor and detect breaches.

Recognizing the challenges faced by those who provide services internationally, ensuring access to adequate social protection for all, regardless of the workers' employment status and geographical location.

In some cases, legislative responses at the national level have sought to clarify how the criteria used for determining the existence of an employment relationship apply in the context of digital platforms. Several countries have adopted legislation aiming at lightening the burden of proof to demonstrate the existence of an employment relationship. An increasing number of countries have established a rebuttable presumption of the existence of an employment relationship whenever a number of criteria are fulfilled. The presumption is rebuttable which means that it can be reversed. However, the burden of proof is shifted to the party invoking a result different from the one that is presumed. This approach has already been implemented in a number of countries at the European level, where it is also subject of a proposed directive (see box 2).

- In Spain, Law No. 12/2021 presumes that delivery and transport platform workers are dependent workers, since they are subject to implicit or indirect dependence on algorithms, although the platform is permitted to prove otherwise.[20]
- In Italy, Law No. 128 (2 November 2019) strengthens the presumption of an employment contract but adds a second option. Self-employed platform workers can also be covered are self-employed, the Law provides that the collective agreement for the sector of activity must apply to them. If there is no collective agreement, the Law provides for a "minimum level of protection", which consists of recognizing certain rights for self-employed platform workers, including payment of their industrial accident and occupational disease insurance.[21]
- Inspired by the EU proposal (see box 2), Belgium established in 2022 a legal presumption of an employment relationship if three out of eight criteria are met. These includes the five criteria included in the European Commission's proposal and adds three criteria regarding the demand for exclusivity, use of a geolocation mechanism and restrictions on the way work is carried out.
- In the USA, in the State of California, the existence of an employment contract is assumed unless the platform demonstrates that it exerts no control over the worker, that the workers are running their own business, or that the activity being performed is outside the platform's main activity.[22]

▶ Box 2: European Commission proposals on improving working conditions in platform work

A directive on improving working conditions in platform work proposed by the European Commission in December 2021 would create a legal presumption of an employment relationship between a digital platform and a worker if two out of five criteria for control of work performance are fulfilled. The presumption can be rebutted if the platform proves that there is no employment relationship. The five criteria relate to the setting of remuneration, whether there are binding rules with regard to conduct, the supervision of work, the freedom of work organization and working time and restrictions regarding the choice of clients.
In addition, the Directive would introduce certain rights for platform workers, including the right to transparency regarding the use and functioning of automated monitoring and decision-making systems, the impact of such automated systems on working conditions and channels to request reviews of such decisions. These measures concerning transparency would apply to both employees and genuine self-employed. Finally, proposals aim at enhancing transparency and traceability of platform work with a view to supporting competent authorities in enforcing existing rights and obligations in relation to working conditions and social protection.
Reactions to the proposal have reflected the diversity of national approaches to platform work and discussions are ongoing.

Source: European Commission, Proposal for a directive of the European Parliament and of the Council on improving working conditions in platform work of 9 December 2021.

Conversely, approaches opting to consider by law all platform workers as self-employed, independent contractors or service providers hardly allow for the flexibility needed to ascertain the observance of the principle of primacy of facts, namely that the legal classification matches the reality of the examined situation.

Some workers will be difficult to classify because they share characteristics with both employees and self-employed. These workers are in a so-called "grey zone". In practice, these workers are often classified as self-employed, which means they do not have access to the same social protection as dependent employees.

[20] Spain, Law 12/2021 of 28 September 2021, amendment to the Workers' Statute Law [in Spanish].

[21] Italy, Law No. 128 of 2 November 2019 [in Italian].

[22] State of California, Assembly Bill No. 5 of 19 September 2019, amendments to the Labor Code Section 3551 and Section 2750.3, and amendments to the Unemployment Insurance Code 606.5 and 621.

Some of these workers may be vulnerable and some countries have extended social protection to them, e.g. by focusing on the financially dependent self-employed (those who depend for most of their income on just one client) or on specific occupations. Other countries, still, such as the United Kingdom, Spain, or China, have introduced a third, intermediate, category of workers and extended some basic labour and social protection rights to them. In Spain, mandatory employment injury insurance legislation includes workers in dependent self-employment, as the third category is called.[23] Evidence suggests however that this has not necessarily translated into enhanced legal certainty or that it has put an end to legal proceedings for the reclassification of platform workers. While, on the one hand, this approach may better protect some workers, there is also a risk that, by multiplying the number of worker categories, the legal uncertainty that can exist when assigning a worker to one category or another also increases.

3.2 Labour protection for platform and gig workers

Women and men working for platforms often are at the lower end of the income distribution, often in insecure forms of work. They are also typically among the hardest hit by social risks and crises. Overcoming these vulnerabilities to realize a human centred development implies the need to extend not only social protection to platform workers but to also, simultaneously, ensure that they benefit from adequate labour protection.[24] This includes:

- **Adequate pay.** For employees, a legally binding minimum wage and collectively negotiated wage floors can help to prevent exploitation and address in-work poverty. Yet most platform workers are usually excluded from such arrangements. For some of these workers, it might be worth considering how mechanisms to achieve adequate pay could be extended.[25]
- **Working time regulation.** Traditional concerns around working time have centred on the issues of excessive working hours. This is why labour legislation usually contains rules limiting working hours and requiring periods for rest and recuperation, including weekly rest and paid annual leave – but these tend not to cover platform workers. Platform workers often also need to remain on-call if they do not want to lose out when new jobs/tasks are advertised and, in the case of certain micro-task platforms, workers spend on average one third of their time on unpaid work including searching for tasks. [26] Similarly, workers on taxi platforms spend about 65 hours on average per week, which leads to high work intensity and risks work-related injury, which can have severe implications on their occupational safety and health.
- **Occupational safety and health.** In platform work, responsibilities for occupational safety and health are often transferred from the employer to individual workers, who often lack the training or resources to take appropriate measures to ensure that their working conditions and the working environment are safe. Sometimes, strong competition between workers may result in corners being cut and unnecessary risks being taken.[27] Special provisions to extend OSH regulation to platform workers should be envisaged, especially given that the right to a safe and healthy working environment has been recognized as a fundamental principle and right at work in 2022.[28]
- **Employment protection**. When workers have employee status, employment protection legislation usually protects them against unjustified termination by the employer, including remedies for unfair dismissal. However, these labour law protections do not extend to most platform workers. In fact, terms of service agreements of digital labour platforms often tend to be "contracts of

[23] C. Behrendt and Q. A. Nguyen, *Innovative Approaches for Ensuring Universal Social Protection for the Future of Work*, (ILO, 2018).

[24] ILO. 2021. *Digital Platforms and the World of Work in G20 Countries: Status and Policy Action*, Report Prepared for the Employment Working Group under Italian G20 Presidency.

[25] See section 1 in *G20 Policy Principles on Adapting Labour Protection for More Effective Protection and Increased Resilience for All Workers*, 2022.

[26] ILO, *World Employment and Social Outlook: The role of digital platforms in transforming the world of work*, 2021., p. 166-170.

[27] ILO, *World Employment and Social Outlook: The role of digital platforms in transforming the world of work*, 2021, p. 171-173; Samant, Yogindra 2019. The promises and perils of the platform economy: Occupational health and safety challenges, and the opportunties for labour inspection, World Day for Safety and Health at Work 2019.

[28] See section 2 in *G20 Policy Principles on Adapting Labour Protection for More Effective Protection and Increased Resilience for All Workers*, 2022.

adhesion" and establish that the platform can deactivate a worker's account without providing a justification, sometimes even without previous warning.[29]

Together, labour and social protections increase the capacity of States to act upon both distribution and redistribution levers to reduce inequalities and adopt more effective measures to cope with external shocks. In addition, numerous positive inter-actions exist between these two worker-protection dimensions. For example, the prevention of occupational injuries and diseases, and adequate earnings and decent working time, improves the financial sustainability of social security systems. National policies need to devote greater attention to understanding which optimal combination of wages, social protection and fiscal policies is the most conducive to adequate, inclusive and sustainable protections of all workers in different labour market and socio-economic circumstances.

3.3 Ensuring transparency of algorithms and data to ensure protection of workers' rights

Platform workers should have the right to know the rules and criteria used by algorithms for task assignment and work evaluation as well as the right to access to the data related to their work. Lack of transparency in the algorithmic management practices and data used by platforms bears the risk of infringing upon workers' rights. In the Netherlands, a judgment confirmed the right of a transport platform to use an algorithm for taking decisions, but also its obligation to make transparent the data and main evaluation criteria fed into the algorithm so that workers can understand them and test their lawfulness.[30] In Spain, Law No. 12/2021 of 28 September regulates the right of worker representatives to obtain information on "the parameters, rules and instructions at the basis of the algorithms … which influence decision-making that can affect working conditions [and] access to and retention of employment" (one single article).[31] The proposed EU directive (see box 2 above) emphasises on strengthening algorithmic transparency and to create the right for workers to contest automated decisions. Following a judgment reclassifying them platform drivers as employees, a recent EU Regulation 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, has recently been used by platform drivers in Switzerland to assess the adequacy of the terms and conditions of employment proposed by a riding platform.

▶ 4. Ensuring adequate social protection for workers on digital platforms and the gig economy: country examples and lessons learnt

G20 and other countries have taken measures to extend social protection to workers on digital platforms and the gig economy. They have used both contributory mechanisms (in particular social insurance) as well as non-contributory (tax-financed) mechanisms, to ensure adequate protection of workers, facilitate labour market mobility and safeguard the sustainable and equitable financing of social protection systems.

Guaranteeing universal social protection throughout the life cycle for all, including workers in all types of employment, based on sustainable financing, solidarity and risk sharing, is not only a matter of realizing the

[29] See section 1 in *G20 Policy Principles on Adapting Labour Protection for More Effective Protection and Increased Resilience for All Workers*, 2022.; ILO 2021. World Employment and Social Outlook: The role of digital labour platforms in transforming the world of work, p. 209.

[30] Judgments of the District Court of Amsterdam (Netherlands), 11 March 2021.

[31] Spain, Law 12/2021 of 28 September 2021, amendment to the Workers' Statute Law [in Spanish].

human right to social security, but is also important in establishing a level playing field and ensuring fair competition between platforms and more traditional companies.[32] [33]

Ensuring that platform and gig workers have access to the full range of social protection is key for their effective access to health care and income security, including in case of unemployment, maternity, employment injury, sickness, old age, disability, loss of the income provider and for the maintenance of children. This helps not only to realize their human right to social security, but is also a matter of labour market efficiency. Without adequate SP workers will find it difficult to find a new, good match in the labour market, which will lead to mismatch, lower productivity and growth.

While the main focus of this paper is on measures to extend coverage to the various categories of workers on digital labour platforms, measures extending social protection to categories of workers with similar characteristics, such as some workers in part-time, temporary or self-employment, or those who have multiple employers, will also benefit these workers.

4.1 Adapting national social protection policy and legal frameworks

Improving social protection coverage for platform workers is part of a broader effort to ensure adequate protection in all types of employment, which is an important element of the G20's commitment to provide universal access to comprehensive and sustainable social protection.[34] This may require some adaptations in national social protection policy and legal frameworks to extend protection to them and facilitate access, while avoiding fragmentation and exclusion. This includes in particular improving coverage of those not yet adequately protected (including self-employed workers, see Box 3) and securing the necessary legal certainty for workers and employers, such as by ensuring the correct classification of employment relationships (see section 3.1).[35]

[32] ILO, *World Employment and Social Outlook: The role of digital platforms in transforming the world of work*, 2021

[33] C. Behrendt, Q. A. Nguyen and U. Rani, "Social Protection Systems and the Future of Work: Ensuring Social Security for Digital Platform Workers". *International Social Security Review* 72 (3) (2019): 17–41.

[34] This is also reflected in the 2021 resolution and conclusions of the International Labour Conference on social protection (social security), the ILO Centenary Declaration for the Future of Work (2019) and is in line with international labour standards, in particular the Social Protection Floors Recommendation, 2012 (No. 202) and Social Security (Minimum Standards) Convention, 1952 (No. 102).

[35] Also reflected in the *Resolution and conclusions concerning the second recurrent discussion on social protection (social security)*, ILO, 2021.

▶ Box 3: Extending social protection to self-employed workers

Many countries have made progress in extending social protection to self-employed workers, including those with low incomes and in vulnerable situations, yet further efforts are necessary to close protection gaps.

In doing so, it is essential to ensure that workers' entitlements and acquired rights continue to be accrued, regardless of their employment status, including when changing employment status or combining incomes from dependent and independent work. This can be achieved by covering self-employed workers in the same social protection scheme as employees, or by ensuring seamless coordination between schemes in the case of more fragmented systems.

Usually, the parameters that require adaptation to the specific circumstances of self-employed persons concern the financing of the protection and the benefit package. Adaptations are also generally observed as regards assessing the income basis.

- Many countries have extended the coverage of their social protection systems to self-employed workers, especially in the areas of health protection, sickness benefits, maternity and family benefits, and old age pensions. Countries where the level of protection is comparable with that of employees include Turkey (several branches), Canada, France, the Republic of Korea and the United States (old age pensions).
- While the self-employed are often excluded from unemployment insurance schemes, some countries, including Croatia, Czechia, Luxembourg, Slovakia and Poland, have extended mandatory coverage of unemployment insurance to self-employed workers, and others, including Austria and Denmark, allow self-employed individuals to participate in their existing unemployment protection schemes voluntarily. In France, an unemployment allowance for self-employed workers was introduced in 2019 and further developed in 2022.
- Several countries, including Austria, Colombia, Iceland, Luxembourg, Malta, Peru, Poland, Portugal, Slovenia and Sweden, have extended the coverage of their existing contributory employment injury schemes to the self-employed on a mandatory basis, in others, the self-employed are covered by separate schemes. In Spain, for example, the self-employed (including the economically dependent self-employed, defined as those who work predominantly for a single client on whom they depend for at least 75 per cent of their income) are covered by the Special Social Security Scheme for Self-Employed Workers. In 2022, Belgium also introduced the compulsory work accident coverage for self-employed persons.

Source: Based on ILO and OECD (2020) Ensuring Better Social Protection for Self-Employed Workers, Paper Prepared for the G20 Virtual EWG Meeting, Riyadh, 8 April 2020; ILO (2021), Extending Social Security to Self-Employed Workers, Social Protection Spotlight Brief.

Digital platforms are not meant to be exempt from the application of social security and labour protection legal frameworks. However, in order for these to be extended to various categories of workers on digital platforms, the national legal frameworks might need to be adapted so as to take into account the specificities of work taking place through digital platforms.[36]

While a robust and sustainable social protection system also relies on contributions from employers and workers, non-contributory (usually tax financed) schemes play an important complementary role in ensuring at least a basic level of social security for everyone and are a key element of a nationally-defined social protection floor in line with the ILO Social Protection Floors Recommendation, 2012 (No. 202). An effective tax system is crucial to ensure the financing of such schemes.

As highlighted above, the correct classification of a worker's employment status remains a pressing matter that has far-reaching consequences for promoting decent work, productive employment and social

[36] ILO, *World Employment and Social Outlook: The role of digital platforms in transforming the world of work,* 2021.

cohesion. At the same time, enhancing social protection for self-employed workers is a matter of priority for many countries, and has given rise to a number of important policy innovations.[37]

In addition to the developments in the G20 context, a number of countries have taken steps to extend labour and social security legislation to the various categories of workers in the platform economy.

Countries have been using different approaches. For example, India's Code of Social Security (2020) defines both gig and platform work as activities which necessarily take place outside of an employment relationship, yet provide for protection of these categories or workers.[38] In other countries, in parallel to extending social protection to self-employed persons working through digital platforms, the approach has rather been to let digital platforms have recourse to both dependent and independent employment and introduce in the national legislation a clear set of criteria to be used for categorizing platform work. Under this approach, work is presumed to take place within an employment relationship when a minimum number of these criteria have been matched but the platform or the worker could challenge the classification by demonstrating the independent nature of employment (see Box 2).

Whether classified as employees or self-employed, platform workers should be eligible for at least a basic level of social protection. This requires specific attention to the capacity and appropriate regulations to register platform workers, simple access and contribution payment mechanisms, awareness raising and information on social protection and partnerships across the public and with the private sector for enhanced sharing of data.

4.2 Increasing ease of use and access for platforms and workers

To bring platform and gig workers under the umbrella of social security, innovative and effective measures are necessary. This requires that public services, such as the registration of workers with social insurance schemes, are as easy and as effective as possible, and at a low cost, including through the use of adequate online tools.[39]

Country experiences of facilitated registration and contribution payment are mainly based on two complementary features: Simplified procedures and tools provided by the social security and contribution collection agencies, and interconnection between the platform and the contribution collection agencies aiming at automating contributions payment at the source. Both require investment in the digital and technological capacities of implementing agencies, and the latter the development of approaches towards national initiatives for data sharing.

- In France, platforms are obliged to share detailed information on workers' income with the social security agencies. In addition, workers can authorize the platform to transfer contribution payments on their behalf to the contribution collections agency (ACOSS). In turn, self-employed workers can use the simplified mechanisms offered under the "auto-entrepreneurs" category. New systems for the payment of contributions of the self-employed are also being developed in Spain and Portugal 40.
- Estonia established the Entrepreneur Account in 2019 to simplify the formalization and payment of taxes for private persons engaged in entrepreneurship, notably providing services or selling products to other persons without large expenses, including for new forms of entrepreneurship via digital platforms. Income earned through an entrepreneur account is taxed with a uniform tax, which is divided into income tax, social tax and, in the case of obligated persons contribution to mandatory funded pension. Pensions and health insurance contributions are remitted directly and

[37] ILO (2021) *Extending Social Security Coverage to Workers in the Informal Economy: Lessons from International Experience*; ILO (2021) Extending Social Security to Self-Employed Workers: Lessons from International Experience. Social Protection Spotlight.

[38] "Gig worker" is defined in the national legislation as a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship; whereas "platform work" means a work arrangement outside of a traditional employer employee relationship in which organisations or individuals use an online platform to access other organisations or individuals to solve specific problems or to provide specific services or any such other activities which may be notified by the Central Government, in exchange for payment. See Act No. 36 of 2020.

[39] G20 Labour and Employment Ministers Declaration, Annex 2, 2020.

[40] Freudenberg C. 2019. Rising platform work - Scope, insurance coverage and good practices among ISSA countries. ISSA Technical Commission on Old-Age, Invalidity and Survivors' Insurance.

in a simplified way from the account to the social security administration. In addition to simplifying payments, the account also allows for income from several platforms and work to be received and taken into account as a whole, which reflects the realities of many digital workers that are registered on several platforms 41.

Several countries dispose of "monotax" mechanisms that extend social insurance coverage to self-employed workers through a single payment that combines certain taxes and social security contributions, which also helps to facilitate the protection of some categories of platform workers.[42] This lowers the administrative burden and threshold for workers to pay into social insurance schemes.

- In Argentina, platform workers can use monotax simplified procedures, tailored portal and mobile app developed by the Tax Administration (AFIP) to facilitate registration and contributions payment 43.
- In Uruguay, a similar mechanism to the general monotax mechanism, with a dedicated phone application, is used to ensure social security coverage for workers on ride-hailing platforms.[44] Contributions are paid automatically through a connection between the platform and the contribution collection agency.
- In Brazil, the Government plans to extend coverage of its monotax mechanism to drivers working on digital platforms, granting them access to sickness, maternity and disability benefits as well as old-age pensions.[45]

Other countries have developed other financing arrangements to facilitate the coverage of specific groups of workers with complex or unclear employment relationships:[46]

- India's Social Security Code foresees a tax on the turnover of platforms as one of the financing sources of social security for platform workers, similarly to the levy ("cess") that is already implemented in several sectors of the economy (for example for construction workers) and channelled through sectoral Worker Welfare Funds.
- France and Germany use a similar model to finance social security for artists and others in the creative sector, who are also often engaged for very short "gigs" – a characteristic that they share with many platform workers.

Other examples of measures include the following:

- In Indonesia, the government agency for social security works in partnership with the financial sector to facilitate the making of registration and contribution payments so as to extend the coverage of work injury and death benefits to Gojek drivers. This encourages Gojek drivers to register online with the agency, while their social security contributions are drawn directly from their driver accounts.[47]
- In Malaysia, a similar solution has been adopted by the Social Security Organisation (SOCSO) in collaboration with the ride-hailing GRABCAR app. Since November 2018, the drivers are mandatorily requested to register and contribute to PERKESO in order to obtain/renew the Public Service Vehicle

[41] Entrepreneur account. Estonian Tax and Customs Board. URL: https://www.emta.ee/en/private-client/taxes-and-payment/taxable-income/entrepreneur-account.

[42] ILO, *World Employment and Social Outlook: The role of digital platforms in transforming the world of work,* 2021

[43] Deraeve P., Rogiers M. and Segaert M. 2022. Employment and social protection for platform workers: Recent developments and trends. Technical Commission on Employment Polices and Unemployment Insurance.

[44] ISSA (2017) *Uruguay. Formalizing Enterprises and Workers in the Shared Economy (Transporting Passengers Using Mobile Phone Applications: UBER, Cabify, EasyGo): A Case of the Social Insurance Bank*. Good Practices in Social Security. 2017; ILO (2021) *Extending Social Security Coverage to Workers in the Informal Economy: Lessons from International Experience*.

[45] D. La Salle and G. Cartoceti, *Social Security for the Digital Age: Addressing the New Challenges and Opportunities for Social Security Systems* (ISSA, 2019).

[46] ILO and OECD, *Ensuring better social protection for self-employed workers*, Paper prepared for the 2nd meeting of the G20 EWG under Saudi Arabia's presidency, 2020, p. 14; ILO (2021) *Extending Social Protection to the Cultural and Creative Sector*, Social Protection Spotlight; C. Galian, M. Carlos, Licata and M. Stern Plaza (2021) *Social Protection for Workers in the Cultural and Creative Sector: Country Practices and Innovations*'. ILO Working Paper 28.

[47] Q. A. Nguyen and N. Cunha, *Extension of Social Security to Workers in Informal Employment in the ASEAN Region (ILO, 2019).*

licence and to be authorized to provide the service. Contributions can be paid through mobile apps/payment via SOCSO's portal while the gateway e-wallet/GrabPay/QR pay (the medium is under development [48]

- In Singapore, some platforms voluntarily transfer contributions to social insurance institutions, and Grab is the first platform which additionally matches social contributions of its self-employed workers through the GrabCar Driver MediSave Match Programme. Contribution payments to Central Provident Fund Board (CPF) can be done directly through an interconnection with the PayNow electronic fund transfer service. These systems will further evolve in the coming years when protection through CPF contributions will become compulsory and be expanded 49.

4.3 Creating new avenues for data sharing between platforms, workers and authorities

Some G20 countries, such as France and Belgium, have introduced the possibility of data sharing between digital labour platforms and public authorities. Digital labour platforms share information about workers' incomes with tax authorities. Tax payments are collected by the fiscal authority and the corresponding share of social security contributions is transferred to the social security institution.[50] This can facilitate both the payment of taxes and contributions for individuals, and the collection of taxes and contributions for authorities, but such measures must maintain the protection of privacy and data. While this practice is voluntary, incentives encourage workers to participate:

- In Belgium, workers on registered digital platforms have to contribute to social insurance if their annual earnings exceed a minimum threshold of EUR 6,250.[51] [52]
- In France, some platform workers can opt to allow the platform to deduct contributions and pay them directly to the authorities.[53]
- Other G20 countries in Latin America, such as Argentina, Brazil and Mexico, have introduced electronic invoicing systems for self-employed workers in order to capture income streams and automatically prepare the required declarations. This facilitates increased tax collection, lowers tax evasion rates and enhances compliance.[54] Such simplified electronic solutions could also be used to increase compliance with regard to the payment of social insurance contributions in order to ensure workers' coverage.[55]

The portability of data from one platform to another provides workers with a work and performance history, which can facilitate mobility between platforms and transfer a worker's ranking from one platform to another. Portability of data, both regarding social protection entitlements and work and ratings histories, also increases the labour market mobility of platform workers (see section 4.5). This portability is already recognized as a right of individuals by the General Data Protection Regulation (Article 20) in the EU and the EEA, and by the Standards for Personal Data Protection for Ibero-American States (Article 30).

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[48] D. La Salle and G. Cartoceti, Social Security for the Digital Age: Addressing the New Challenges and Opportunities for Social Security Systems (ISSA, 2019); Ahmad Nazli Bin Othman Mohd. 2022. The role of social security in promoting inclusive growth and social cohesion: A report on contribution collection from platform workers. ISSA Technical Commissions.

[49] Freudenberg C. 2019. Rising platform work - Scope, insurance coverage and good practices among ISSA countries. ISSA Technical Commission on Old-Age, Invalidity and Survivors' Insurance.

[50] ESIP, *Are Social Security Systems Adapted to New Forms of Work Created by Digital Platforms?* European Social Insurance Platform, 2019.

[51] C. Freudenberg, *Rising Platform Work: Scope, Insurance Coverage and Good Practices among ISSA Countries, Study of Technical Commission on Pensions* (ISSA, 2019)

[52] C. Freudenberg, W. Schulz-Weidner and I. Wölfle, „Soziale Sicherung von Plattformarbeit im internationalen Vergleich – Gute Praxis Und Handlungsoptionen Für Deutschland", *Deutsche Rentenversicherung* 4 (2019): 365–98.

[53] D. Ogembo and V. Lehdonvirta, "Taxing Earnings from the Platform Economy: An EU Digital Single Window for Income Data?". *British Tax Review (2020)*: 82–101.

[54] IADB, *Electronic Invoicing in Latin America, 2018.*

[55] ILO and OECD, *Ensuring better social protection for self-employed workers*, Paper prepared for the 2nd meeting of the G20 EWG under Saudi Arabia's presidency, 2020.

4.4 Awareness and information

As well as for other difficult-to-cover groups, awareness and information campaigns are crucial to foster platform workers' formalization and social security coverage.

- In France, platforms must inform workers about the applicable social contributions and tax obligations and provide a link to the websites of the respective administrative authorities.[56]
- In Argentina, the Tax Authority (AFIP) provides information and Q&A about the Monotax scheme and its variants.[57]
- In Malaysia, Grab informs workers about protection benefits through EPF and SOCSO, and produces informative videos.[58]
- Similarly, in Indonesia, BPJS Ketenagakerjaan informs GOJEK drivers and generates awareness about formalization through its YouTube channel.

4.5 Portability and transferability among schemes and employers

Many platform workers move between dependent employment and a self-employed status, or work via a platform in addition to their dependent employment. A lack of portability and transferability of entitlements between social protection schemes can lead to inadequate social protection coverage, particularly for long-term benefits such as pensions, and ultimately hinders labour market mobility.[59] Inclusive social protection schemes that cover workers in all types of employment and are based on the principle of a large pooling of risk and solidarity between their members are best suited to ensure the portability of benefits (see box 3). They can not only facilitate the coverage of workers moving between dependent employment and self-employment, but they are also well suited to cover those workers who combine a main job in the traditional economy with platform work. The issue of a lack of portability and transferability is exacerbated when the worker and the platform are based in two different jurisdictions (see chapter below).

In 2021, G20 Labour and Employment Ministers agreed to enhance the portability of social security entitlements across different employment statuses, sectors, and countries.[60]

4.6 Private initiatives while adapting public regulations

At times, upon receiving a legal mandate to this effect or of their own initiative, certain digital platforms have concluded contracts with private insurance companies with a view to covering certain risks such as injuries suffered at work or sickness and their consequences on the health and income security of their collaborators. In China, the ride-share platform Didi Chuxing has set up its own medical insurance plan with contributions from the platform and/or the workers, depending on the particular scheme. Some other location-based platforms, like Deliveroo, Glovo, Ola, Swiggy and Uber also provide drivers with in-ride insurance to varying degrees. Deliveroo's insurance, for instance, covers riders against injuries and third-party liability while they are online and for one hour after they have gone offline, while Swiggy's insurance coverage includes compensation of family members in case of illness.[61]

However, for the most part, these developments took place in a period when a clear policy vision for providing platform workers with comprehensive and adequate social protection was still lacking. Also, to the extent that such arrangements are made with profit-seeking commercial insurance companies and

[56] Freudenberg C. 2019. Rising platform work - Scope, insurance coverage and good practices among ISSA countries. ISSA Technical Commission on Old-Age, Invalidity and Survivors' Insurance.

[57] Monotributo-AFIP. URL: https://monotributo.afip.gob.ar/Public/landing-monotributo.aspx

[58] GrabBenefits - Grab. URL: https://www.grab.com/my/grabbenefits/driverpartner/

[59] ILO and OECD, *Ensuring better social protection for self-employed workers*, Paper prepared for the 2nd meeting of the G20 EWG under Saudi Arabia's presidency, 2020.

[60] Catania Declaration, Annex 2

[61] ILO (2021) *World Employment and Social Outlook: The role of digital platforms in transforming the world of work.*

essentially limited to low-wage earners, they risk being less redistributive, equitable and effective than public schemes based on large risk pooling. In addition, the creation of separate social protection schemes for specific categories of workers can lead to a fragmentation of schemes. In these cases, it is essential to put appropriate coordination mechanisms in place, for example through unified social security numbers as is the case in Mexico, so that the portability and transferability of entitlements can be ensured.[62] Conversely, more and more countries follow an approach aimed at including the various categories of platform workers into mainstream social protection schemes which presents the considerable advantage of including often vulnerable low-income earners and workers with non-linear working careers and allowing them to benefit from adequate levels of protection, while at the same time contributing to the reduction of inequalities, including gender inequalities.[63]

▶ 5. Instituting rights and protections across borders

While work provided on in-situ platforms is mostly provided under the authority of one jurisdiction, the activities of online platforms can span two or more jurisdictions, and are therefore more challenging to regulate. So far, the initiatives to regulate platform work and the existing collective agreements concern mostly in situ platform workers. Online platform workers largely remain in a blind spot as they perform work that is usually outsourced globally across borders through platforms which operate across several jurisdictions, and workers might not be in the same jurisdiction as the platforms to perform their work.

For this reason, this section zooms in specifically into the question of how to institute rights and protections in the context of work for online digital platforms that usually spans across borders and legal jurisdictions, and discuss possible options for international frameworks that could support this effort. In 2021, the G20 acknowledged "the need to strengthen our international cooperation" and committed to "work towards a concerted response to ensure decent work in the platform economy."[64]

Given the extra-territoriality elements, determining the legislation applicable to this type of online platform work is particularly important so as to effectively enforce the applicable labour and social protection legal frameworks.[65] In case they are considered self-employed, online platform workers would be subject to the social security regulations in the country where they reside and carry out their work. Yet, in case the national social security system does not provide for comprehensive protection, the worker would not enjoy adequate protection. If considered as self-employed, the worker would be responsible to meet the social security and tax obligations, while the client and the platform would not contribute to the social protection of the worker, and would also not provide data that would allow for income assessment and contribution and tax collection.

The case is different for workers whose work through a platform can be characterised as being an employee of the platform. According to the territoriality principle, a person is subject to the legislation of the country in which the work is performed.[66] Yet, if these "online" workers perform their work from a country where the employer is not legally established or incorporated and, hence, also not registered with the social security authorities, this raises the question of the competent jurisdiction for the registration and collection of social security contributions. On the one hand, if the registration/contributions are to be made in the place of residence of the employee, this would require platforms to have a registered office and at least a minimal structure in all countries where they have employees, which is unlikely to be the case. On the other hand, if,

[62] ILO and OECD, *Ensuring better social protection for self-employed workers*, Paper prepared for the 2nd meeting of the G20 EWG under Saudi Arabia's presidency, 2020; C. Behrendt and Q. A. Nguyen, Ensuring Universal Social Protection for the Future of Work. *Transfer* 25 (2) (2019): 205–19.

[63] C. Behrendt, Q. A. Nguyen and U. Rani, Social Protection Systems and the Future of Work: Ensuring Social Security for Digital Platform Workers. *International Social Security Review* 72 (3) (2019): 17–41.

[64] Catania Declaration, para. 8

[65] ILO, *Decent work in the platform economy,* Reference document for the Meeting of experts on decent work in the platform economy, 2022.

[66] There are certain limited exceptions to this principle that can be found in the cases of seafarers or airline crews for example, but in their cases, there are other particularities that are taken into consideration.

by derogation to the territoriality principle, the employees were to be registered in the country where the employer is established, the question needs to be raised whether they be legally allowed to be registered even as a non-resident and what kind of access they would have to social security benefits. For instance, the coverage for medical care would allow for access in the country of the employer, which is of little value for the employee residing potentially on the other side of the world. Table 2 summarizes the situation:

▶ Table 2: Summary of considerations with regard to social security rights and protections across borders

Type of worker	Social security protection and barriers
Self-employed	A self-employed worker who provides services abroad must contribute in his/her place of residence and is not treated differently from self-employed providing online services to domestic clients. International situations may increase difficulties with regard to enforcing compliance.
Employed	A number of questions must be answered to determine the social security system by which the worker is covered and to which contributions should be paid? ▶ In the country where work is performed, i.e. the country of residence of the worker, is the platform registered and can it legally pay contributions in this country? ▶ In the country where the platform is registered, can foreign employees be registered in the social security system, what would be their access to which social security benefits and would portability be assured?

In practice, many of these "online" platform workers are in vulnerable situations as unregistered or undeclared free-lancers, or micro-taskers ("click-workers"). They lack a formal labour or service provision contract other than the platforms' terms and conditions and are therefore often less visible to national tax, labour and social security authorities than other workers. Online platform workers are hence even more in need of protection, which can be afforded via greater clarity with respect to solving conflicts of laws so as to designate clearly the national legislation applicable to the labour and social protection of platform workers, including with respect to their classification and determining who, how and to which extent is going to have to contribute for social protection.

The ILO Recommendation No. 198 states in that regard that "where workers are recruited in one country to work in another, the countries concerned may consider bilateral agreements to prevent abuses and fraudulent practices which have as their purpose the evasion of the existing arrangements for the protection of workers in the context of an employment relationship". With a view to stimulating the discussion on an international framework, the ILO's Global Commission on the Future of Work had considered that the Maritime Labour Convention, 2006 could represent a good reference point.[67] Of course, workers performing online-work do not necessarily have the same characteristics as seafarers, notably when it comes to their geographical mobility, but, like in the case of seafarers, they are in most cases in a situation involving at least two, and potentially more, jurisdictions.

Consideration might therefore be given to whether issues related to the labour and social protection of online workers on digital platforms could be resolved through international intervention notably covering issues such as the determination of the applicable legislation and type of employment, portability mechanisms as well as the financial arrangements in respect of international situations.

[67] ILO, *Report of the Global Commission on the Future of Work*, 2019.