



European
Commission



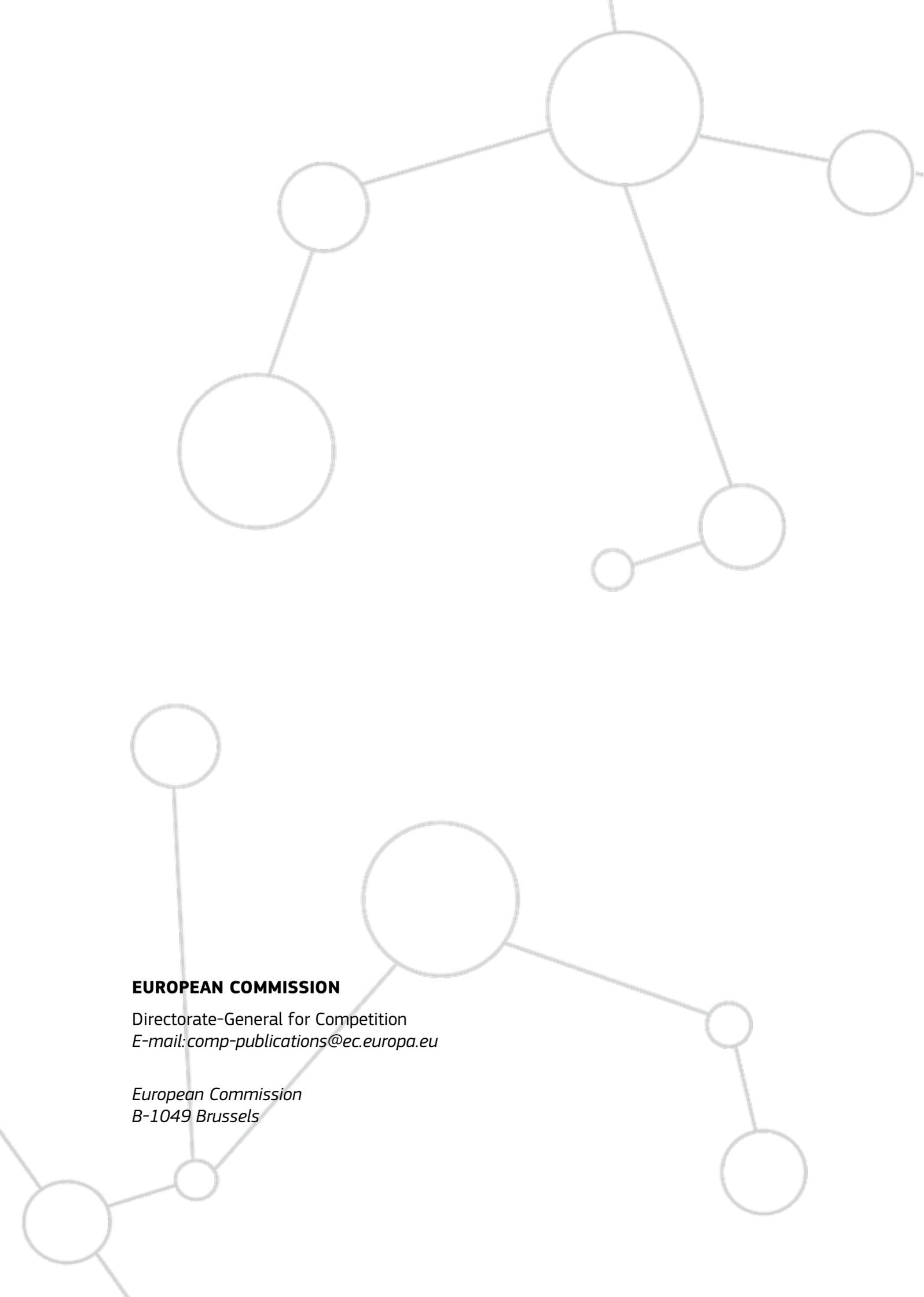
Study to support the impact assessment
of a possible EU initiative to the application of
competition rules to
collective bargaining
by self-employed

Prepared by



Annex 6
OPC Report

Competition



EUROPEAN COMMISSION

Directorate-General for Competition
E-mail: comp-publications@ec.europa.eu

*European Commission
B-1049 Brussels*

**Study to support the impact assessment of a
possible EU initiative to the application of
competition rules to
collective bargaining by self-employed
(COMP/2020/008)**

Annex 6 – OPC Report

13 October 2021

***Europe Direct is a service to help you find answers
to your questions about the European Union.***

Freephone number (*):

00 800 6 7 8 9 10 11

(*)The information given is free, as are most calls (though some operators, phone boxes or hotels may charge you).

LEGAL NOTICE

The information and views set out in this report are those of the author(s) and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this study. Neither the Commission nor any person acting on the Commission's behalf may be held responsible for the use which may be made of the information contained therein.

More information on the European Union: https://european-union.europa.eu/index_en

Luxembourg: Publications Office of the European Union, 2022

Catalogue number: KD-09-22-533-EN-N

ISBN: 978-92-76-56999-2

DOI: 10.2763/179451

© European Union, 2022

Reproduction is authorised provided the source is acknowledged.

The reproduction of the artistic material contained therein is prohibited.

Authors:



Universiteit Utrecht

This report was prepared by a team of experts led by Ecorys between January and September 2021. The Ecorys team comprised Andrea Broughton, Manuel Goncalves Gil, Martin Van der Ende, Sergio Goffredo, Lucija Kilic, Letizia Vicentini, Laura Heidecke and Maire Williams, supported by Andrea Naldini, Carlo Miccadei and Anna Mori from Ismeri Europa, and a team of high-level experts (Nigel Meager, Roberto Pedersini, Frans Pennings, Tony Kerr, Massimo Pallini and Francesco Rossi dal Pozzo). The team is grateful for the support of members of the DG COMP European Competition Network and Private enforcement unit (COMP. A.4). Our thanks also go to Giorgio Monti, Victoria Daskalova, Claudia Schubert, Michael Doherty and Marc Cowling for their expert validation comments.

Contents

1.0 Introduction	iii
2.0 Methodology for analysing the results	iii
2.1.1 Quantitative analysis (closed questions).....	iv
2.1.2 Qualitative analysis (open questions).....	iv
2.1.3 Interpretation of results	iv
3.0 Analysis of respondents	iv
3.1.1 Overview	iv
3.1.2 Respondents by groups	v
4.0 Understanding of the situation in Member States	vii
4.1.1 Public authorities targeted questions	x
5.0 EU action for collective bargaining by the solo self-employed	xi
5.1.1 Evaluating the potential impacts of EU action in Member State.....	xii
5.1.2 Additional comments.....	xviii

List of Figures

Figure 1 For each category selected above, please select the elements that are usually governed by the collective bargaining agreements for the solo self-employed	vii
Figure 2 Reasons why solo self-employed cannot benefit from collective bargaining agreements in the country.....	viii
Figure 3 Do you think that it would be a positive or negative development if competition law were not to stand in the way of collective bargaining by solo self-employed by type of respondent	xi
Figure 4 In your view, as explained in the Inception Impact Assessment, EU competition law should not stand in the way of collective bargaining by.....	xiii
Figure 5 In your view, will an initiative ensuring that EU competition law does not stand in the way of collective bargaining by self-employed lead to any social, economic, impact on fundamental rights and freedoms and environmental impacts?	xiv
Figure 6 Please specify the social impacts you expect	xvi
Figure 7 Please specify the economic impacts you expect	xvii
Figure 8 Please specify the impacts on fundamental rights and freedoms you expect.....	xvii

List of Tables

Table 1 Breakdown of respondents by country of origin.....	v
Table 2 Respondents by groups	v

1.0 Introduction

The European Commission Directorate-General for Competition (DG COMP) has launched an initiative to ensure that EU competition law does not stand in the way of collective agreements that aim to improve the working conditions of solo self-employed people (i.e. self-employed without employees), while guaranteeing that consumers and SMEs continue to benefit from competitive prices and innovative business models, including in the digital economy. The initiative seeks to achieve this objective by clarifying the applicability of EU competition law to collective bargaining by solo self-employed.

To support this initiative, an Open Public Consultation (OPC) was held in early 2021. This report summarises the main findings from this OPC, which are an important source of information for the preparation of the final study report.

The OPC survey was distributed using the online EUSurvey tool. It went live on 5 March 2021 and was closed on 31 May 2021. In order to publicise the survey, the European Commission drafted a press release inviting responses.¹ The questionnaire was available in 3 EU official languages (English, French and German) and in electronic format only.

To boost the response rate, a dissemination strategy targeting a wide range of EU and national stakeholders was developed. This includes stakeholders from various categories, such as national and regional competition authorities, companies (with a special focus on SMEs and platform economy companies), labour experts, self-employed individuals, social partners at EU and national level, organisations representing self-employed, as well as other organisations with expertise in the field of platform work and collective agreements. The strategy was implemented in three phases, resulting in around 200 emails sent, as follows:

- **Phase 1:** to make the whole process as efficient and streamlined as possible, key EU-level multipliers were contacted on 8 March 2021. They were prompted to fill in the OPC and to cascade it to their member organisations/networks. Besides this, Ecorys' 27 country experts recontacted their national-level interviewees, interviewed for the country mapping phase of this study, encouraging them to consider completing the OPC and to disseminate it further to their networks. The European Commission also agreed to disseminate the OPC through its own internal networks and mailing lists.
- **Phase 2:** Different types of national organisations across all 27 EU Member States and sectors were directly contacted on 23 March 2021. The language availability in French and German was highlighted to the countries where these are official languages.
- **Phase 3:** Bridging the stakeholder gaps based on the preliminary analysis and focusing on Member States/sectors which are underrepresented. The emails were sent out at the end of April/beginning of May. Reminders were also sent.

The findings presented in this report are based on a final extraction of public consultation replies dated 7 June 2021.

2.0 Methodology for analysing the results

Respondents' views were examined through a combination of closed and open-ended questions. Closed questions provided respondents with different pre-defined categorical answers from which to choose or to rate the level of impact they expect. The analysis of results was carried out using both quantitative (to analyse the frequencies of the closed answers) and qualitative methods (for the open questions to analyse complex concepts as well as to substantiate and interpret the quantitative data with relevant insights). In addition, the research team categorised the responses through a range of

¹ <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12483-Collective-bargaining-agreements-for-self-employed-scope-of-application31-EU-competition-rules/public-consultation>

relevant typologies (respondents answering in an individual/professional capacity, types of organisations, country, etc.).

2.1.1 Quantitative analysis (closed questions)

All survey questions included in the public consultation were analysed on relevant differences between sub-groups of on the basis of disaggregation by Member States and groups of respondents. The quantitative data analysis included:

- Analysis of frequency distribution for each of the variables related to the closed-ended questions: depending on the particular variable, all of the data values were represented. Frequency distributions were also depicted as tables and graphs (histograms) as applicable;
- Cross-tabulations between specific variables and characteristics of respondents (e.g. country of origin, type of stakeholder categories);

2.1.2 Qualitative analysis (open questions)

With respect to qualitative data analysis, information was classified by related variable (number of question) and analysed in order to identify additional relevant information and trends. The information was used to enrich and make the analysis carried out on quantitative data more meaningful. This information is reflected in the report through the inclusion of examples which help to illustrate key issues or trends as identified in the quantitative analysis.

2.1.3 Interpretation of results

The questionnaire was structured in a way that all the respondents had to fill in the descriptive section covering background information related to themselves, while the questions in the main sections differed according to the stakeholder category to which the respondent belongs.

Each question was analysed separately in order to ensure a consistent analysis of the responses. This report is structured following each question and includes a short introduction and rationale, the presentation of results (frequency of responses) in terms of figures or tables, and qualitative analysis for open-ended questions including a breakdown of responses according to the most relevant dimensions (such as stakeholder category).

3.0 Analysis of respondents

3.1.1 Overview

Key finding

The public consultation received **267** responses. However, the responses show an unbalanced geographical distribution, with two countries (Spain and Germany) covering over 50% of responses. All other countries provided a much lower level of responses, with three Member States submitting only 1 response each and five Member States not providing any response.

As of 5 May 2021, the total number of respondents to this OPC was 267. The data on respondents showed an unbalanced geographical distribution (when indicating their country of origin, or that of their organisation). A total of 94 responses referred to Spain as their home country, followed by 47 referring to Germany. The reason for such a high number of responses from Spain could be explained by the fact that already at the inception impact assessment stage, Spanish citizens from the translation field provided substantial feedback and were aware of this initiative.

Three countries only had one response each (Luxembourg, Poland and Portugal), while no response was provided by following 5 countries: Cyprus, Croatia, Lithuania, Latvia and Malta.

Table 1 Breakdown of respondents by country of origin

Country of origin	Number of respondents	
	n	%
Austria	13	4.9%
Belgium	19	7.1%
Bulgaria	6	2.2%
Czechia	2	0.7%
Denmark	8	3.0%
Estonia	5	1.9%
Finland	13	4.9%
France	10	3.7%
Germany	47	17.6%
Greece	2	0.7%
Hungary	2	0.7%
Ireland	5	1.9%
Italy	7	2.6%
Luxembourg	1	0.4%
Netherlands	6	2.2%
Poland	1	0.4%
Portugal	1	0.4%
Romania	3	1.1%
Slovakia	2	0.7%
Slovenia	4	1.5%
Spain	94	35.2%
Sweden	5	1.9%
Non-EU Member States	11	4%
Total	267	100%

Source: EU Survey

A total of 11 respondents stated that they were from non-EU countries. Among these, 6 respondents were from the United Kingdom and three from the United States, 1 from Argentina and 1 from Norway.

3.1.2 Respondents by groups

Key finding

The highest share of respondents responded as EU citizens (44.6%). This is followed by trade union responses (16.5%) and business association responses (10.9%). In terms of their geographical distribution, 61% of EU citizens came from Spain. Most trade unions were located in Germany (18%) and Belgium (16%).

Table 2 Respondents by groups

Pre-defined categories	Number of respondents	
	n	%
Academic/research institution	4	1.5%
Business association	29	10.9%
Company/business organisation	11	4.1%

Consumer organisation	1	0.4%
EU citizen	119	44.6%
Non-EU citizen	4	1.5%
Non-governmental organisation (NGO)	15	5.6%
Other	24	9.0%
Public authority	16	6.0%
Trade union	44	16.5%
Total	267	100%

Source: EU Survey

Out of all 267 respondents, the relative majority (44,6%) responded as **EU citizens**, while the trade unions accounted for 44 responses (16,5%). 60% of EU citizens were located in Spain, while the highest share of trade union responses (18%) came from Germany. Public authorities provided 16 responses, out of which 13 contributions were from different national competition authorities.

Under the “Other” category (24 responses), most answers could have been recorded under the “business association” category or the EU citizen category (respondents describing themselves as freelancers or self-employed.)

Main characteristics of organisations

In terms of the organisation size, the relative majority of organisations (36%) were micro (1 to 9 employees), 25% were large (250+ employees), 22% small (10 to 49 employees) and 15% medium-sized (50 to 249 employees).² Almost all organisations (94%) had national scope.³

The vast majority of organisations (86%) did not consider themselves primarily active in the digital economy.⁴ Among the active organisations, the highest share (32%) was recorded for digital labour platforms or another online intermediary.⁵

When it came to selecting the main sector of activity, respondents predominantly (80%) chose the “other” category.⁶ The mentioned sectors were art & culture, audio-visual, journalism & media and translation & editing.

EU / non-EU citizens’ situation

The vast majority of EU citizens were self-employed working for multiple clients (82%).⁷ On average, they worked with 5 clients or more (67%).⁸ In minority of cases (34%), respondents provided their

²N=144

³N=16

⁴N =140

⁵N=19

⁶N=120

⁷N=123

⁸N=99

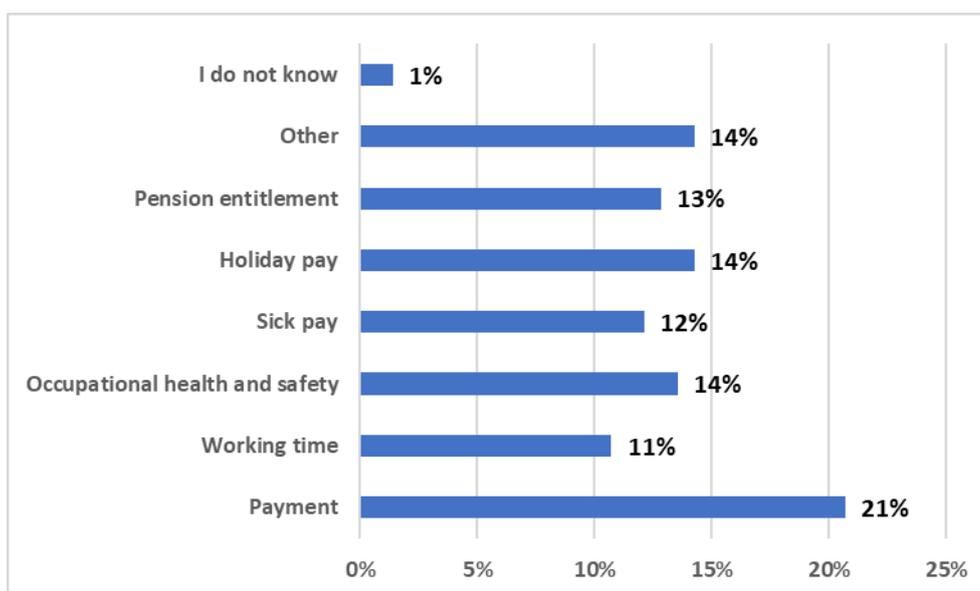
services through digital labour platforms.⁹ For these cases, platform work was their main activity (81%).¹⁰

4.0 Understanding of the situation in Member States

Almost half of respondents (50%) did not provide any answer to the question on how commonly collective bargaining agreements also covered the solo self-employed in their respective country.¹¹ Having in mind that around 45% said that it was not very common, the overall conclusion seems to be that indeed the collective bargaining mechanism for the solo-self-employed is not a commonality in represented Member States. A small number of respondents indicated that collective bargaining was common in their countries were from Belgium (one in transport and mobility), two from Romania (in research) and two from Spain.

The elements usually governed by the collective bargaining agreements for the solo self-employed are shown in the graph below. The most common elements are *payment* (29 responses, 21%), and *holiday pay* (20 responses, 14%).¹²

Figure 1 For each category selected above, please select the elements that are usually governed by the collective bargaining agreements for the solo self-employed



Source: EU Survey, n=140

In terms of types of solo self-employed covered by collective bargaining agreements, the most frequently chosen were artists and other professionals in the cultural sector (42%).¹³

Not allowed under EU and/or national competition law (62 responses) and no collective agreements covering this type of work (43 responses) were mostly selected reasons why solo self-employed could not benefit from collective bargaining agreements.¹⁴ The complete distribution of answers is presented below.

⁹N=108

¹⁰N=37

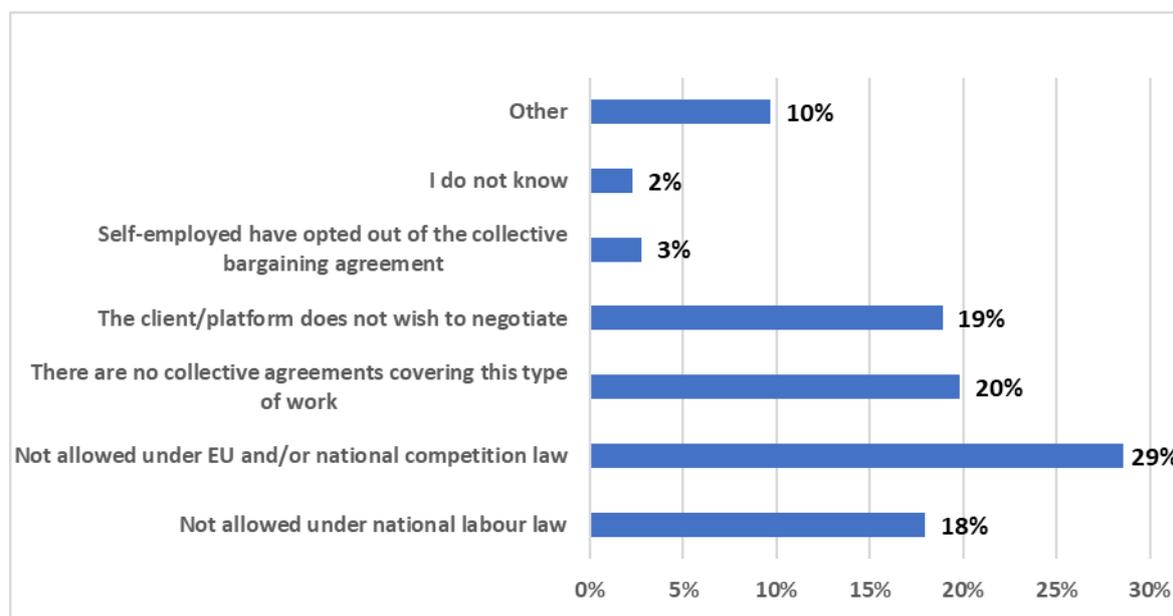
¹¹N=267

¹² Multiple choice question.

¹³ N=57

¹⁴ Multiple option question. N=217

Figure 2 Reasons why solo self-employed cannot benefit from collective bargaining agreements in the country



Source: EU Survey, n=217¹⁵

The question on whether the solo self-employed lacked the power to negotiate with companies their payment and other working conditions was largely unanswered (50% of all respondents). However, 26% thought that they lacked the power across all sectors and 12% thought that they lacked in some sectors.¹⁶

Overall, respondents did not know a great deal about any recent boycotts by solo self-employed to renegotiate the payment of their labour or other working conditions in their respective Member States. Half of respondents did not provide an answer and 40% said that they did not know¹⁷, which, when combined, indicates very low level of awareness. On the other hand, 12% of respondents said that they knew of boycotts. Almost all respondents who knew represented a trade union or a business association, being perhaps more exposed to this type of development than individual EU citizens. They are familiar with the following instances divided by field of activity:

In the field of translation & editing:

- In Finland, collective agreement negotiations for audio-visual translation companies in 2019 sought to include an acquisition bonus for non-employees (i.e. self-employed persons dependent on their client). The contract negotiations ended with the National Conciliator, who did not however take a position on the matter but stated that it would require a change in legislation and was to be resolved under EU competition law¹⁸.
- In Ireland, RTÉ (National Broadcaster) withdrew from a part of a collectively bargained agreement with the Writers Guild of Ireland (WGI) which dealt with rates of pay after the 2016 Competition Amendment Act was enacted in Ireland.
- The US Federal Trade Commission found AIIC (International Association of Conference Interpreters) guilty of price fixing in 1997.¹⁹ Recently, AIIC commissioned a legal study whose main

¹⁵Multiple choice question.

¹⁶N=267

¹⁷ 20% said “no” and 20% said “I do not know.”

¹⁸ <https://valtakunnansovittelija.fi/-/av-kaannostoimistojen-tyoehtosopimusta-koskevassa-tyoriidassa-sopu-tyotaistelutoimi-peruuntuu>

¹⁹Order: https://www.ftc.gov/sites/default/files/documents/cases/1997/03/aicord_0.pdf; Press release: <https://www.ftc.gov/news-events/press-releases/1997/03/ftc-upholds-charges-against-interpreters-association>

conclusion was that Article 101 of the EU Treaty prevents them from negotiating minimum conditions with large language service companies.

- In Spain, the association of proof-readers (*Unión de Correctores*) was fined by the National Market and Competition Commission for recommending minimum fees to its members in 2012.²⁰

In the field of media:

- In 2009 the largest media company in Finland, Sanoma, unilaterally announced that it would only buy content (i.e. text and photos) from self-employed freelancers if the freelancers agreed to transfer all economic intellectual property rights (IPRs) to Sanoma. The Finnish Market Court (IPR court) found that the Sanoma standard contract was not unfair, therefore not illegal. The boycott, mostly driven by photographers, aimed to establish open negotiations and fair compensation. However, the boycott did not have the desired effect and many of the freelancers involved in the boycott no longer co-operate with Sanoma.²¹
- In the Netherlands in 2019, photojournalists, supported by the trade union NVJ organised strikes due to low fees.²²
- In Norway all journalists (including staff journalists sympathising with the unfair treatment of freelance journalists) went on strike to end unequal treatment of freelancers and temporary workers. The strike ended with an agreement.²³
- In Germany, in 2021, freelance workers working for the Berlin-Brandenburg public broadcaster Rundfunk Berlin-Brandenburg went on strike, demanding better protection against job loss and equal pay comparable to permanent employees' pay.²⁴
- In an ongoing dispute, a sizeable number of Danish photojournalists do not accept assignments from the market dominating Danish photo agency, Ritzau Scanpix. The company, with a *de facto monopoly* on Danish news photography, offers fees and copyright agreements that are held to constitute a substantial deterioration of industry standards. As most photojournalists have been obliged to become solo self-employed in the past decade, they cannot enter into collective negotiations or agreements under the current EU guidelines.

In the field of platform work:

- In 2015 a Dutch court decided that solo self-employed parcel deliverers had no right to collective action, but only if they could be identified as falsely self-employed. In February 2021, Amsterdam's Court of Appeals ruled that those individuals delivering for Deliveroo are employees and must be treated as such.²⁵
- Similar trends to those noted above have been seen in the UK where the UK's Supreme Court ruled that Uber must treat its drivers as workers rather than self-employed²⁶ and the Barcelona Court establishing that individuals delivering for Deliveroo had been falsely self-employed and the company should pay social contributions for them.²⁷

Similar to the previous question, respondents were not overall aware of any instance where collective bargaining did not happen for fear of infringing EU or national competition law (52% did not provide an answer, 24% said yes and 24% said no).²⁸ Few respondents (all representing trade unions) who shared the relevant instances explained that businesses and their associations often used the argument of the prohibition of cartels and legal uncertainty under competition law in order not to engage in collective

²⁰ <https://www.uniondecorrectores.org/wp-content/uploads/2018/01/RCNCo.pdf>

²¹ <https://yle.fi/uutiset/3-5495815>

²² <https://europeanjournalists.org/blog/2019/01/09/dutch-photojournalists-on-strike-for-a-payrise-to-counter-inflation-falling-tariffs-and-ignored-authors-rights/>

²³ <https://europeanjournalists.org/blog/2018/05/24/broadcasting-strike-in-norway-ends-in-full-victory-for-journalists/>

²⁴ <https://www.berliner-zeitung.de/news/mitarbeiter-protest-rbb-rechnet-mit-programmauswirkungen-li.156824>

²⁵ <https://www.etuc.org/en/pressrelease/eu-action-needed-after-uber-deliveroo-court-defeats>

²⁶ <https://www.bbc.com/news/business-56123668>

²⁷ <https://www.etuc.org/en/pressrelease/national-rulings-platform-work-show-need-eu-action>

²⁸ N=267

bargaining with trade unions representing self-employed. The respondents argued that there were numerous cases from national competition authorities and national courts in which employers had gone against trade unions organising self-employed, referencing potential infringements of competition law. In some cases, such collective agreements had even been annulled. The secretariats of the three federations FIA, FIM and UNI MEI that constitute the EAEA had been made aware of many instances where collective bargaining was impeded by the fear of infringing competition rules. Members in Ireland, the Netherlands, Sweden, Denmark, Romania, Czech Republic and Germany informed the EAEA of such instances. Some have been addressed by national legislation or policies, but in most cases, this obstacle is still impeding bargaining.

4.1.1 Public authorities targeted questions

Public authorities were asked if their countries had specific legislative provisions that dealt with, or tried to resolve, any conflicts between competition law and collective bargaining or that exempt, partly or in whole, collective bargaining by self-employed from the application of competition rules. Half of respondents stated that their countries did not have any relevant provisions in place.²⁹ Only two entities, one located in Denmark and other in Norway said that their countries did have those provisions in place. More specifically, the Norwegian Competition Act does not apply to "terms and conditions of employment". According to the preparatory works for the Act, this exemption should be interpreted in accordance with EU/EEA competition law, essentially the case law of the CJEU and the EFTA Court. Thus, the regulation covering solo self-employed and those engaged as platform workers is not entirely clear. In 2018 in Denmark, an agreement was signed between the largest Danish trade union 3f and Hilfr (online platform for domestic cleaning), as the first collective agreement on platform work in Denmark.³⁰

Public authorities were also asked whether there were cases decided by Labour Courts concerning admissibility or limits in relation to collective bargaining for self-employed. A total of 38% of respondents said yes, 31% did not know and 25% said no.³¹ The national competition authorities that said yes were from the following countries: France, Sweden, Italy, Norway, Poland and Romania.

The concrete examples mentioned include the cases on the interpretation of the concept of "worker" (compared to self-employed/economically dependent). In Poland, the most important verdict in the matter of admissibility or limits in relation to collective bargaining for the self-employed was issued by the Constitutional Tribunal in 2015³², with one of the largest Polish trade union organisations, OPZZ³³ as the plaintiff. According to OPZZ, the Act of Trade Unions contravened the Constitution, creating a limitation to the freedom of creating and joining trade unions by excluding those who are not employees with an employment contract. The French national competition authority mentioned the Court of Cassation decisions³⁴ (which were also confirmed by other courts) on the nature of the relationship between a self-employed worker and a platform in the sectors of meal delivery and passenger transport. In the latter case, the French Court of Cassation has decided to reclassify the contractual relationship between Uber and its driver as an employment contract. This is because when connecting to the Uber digital platform, the driver and the platform establishes a subordinated relationship. Hence, the driver does not provide services as a self-employed person, but as an employee.³⁵

According to half of public authorities, solo self-employed enjoy the right to strike or to organise collective protests in their Member States.³⁶ This is true for the following countries: France, Greece, Luxembourg, Italy, Poland, Romania, Austria and Bulgaria.

²⁹ N=37

³⁰ <https://www.eurofound.europa.eu/sr/data/platform-economy/initiatives/the-danish-trade-union-3f>

³¹ N=16

³² Case No. K 1/13

³³ The Polish Alliance of Trade Unions

³⁴ Judgments n° 17-20.079 of November 28, 2018 and n° 19-13.316 of March 4, 2020

³⁵ https://www.courdecassation.fr/IMG/20200304_arret_uber_communique_eng.pdfv

³⁶ N=16

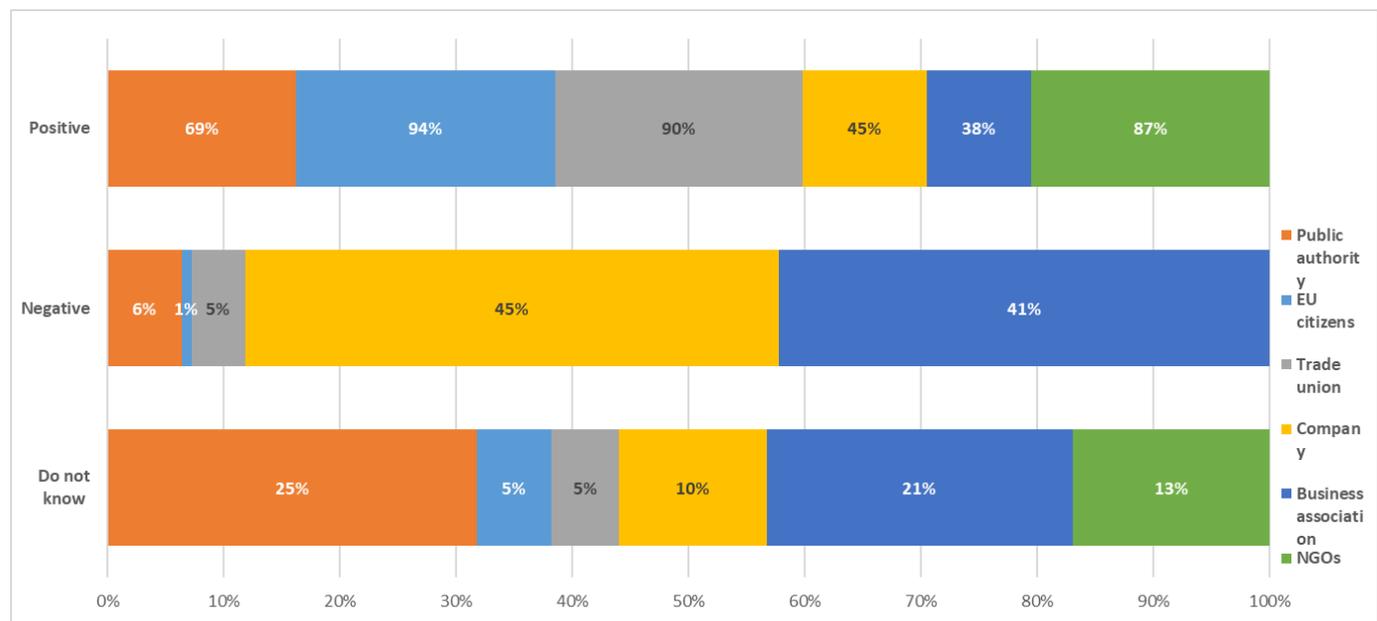
There are limitations to the right for solo self-employed to strike or to organise collective protests according to 44% of respondents. According to one Italian public authority, the law no. 146/1990³⁷, aims at regulating the balance between the right to strike and other rights guaranteed by the Constitution in the sector of the essential public services and has settled some differences between employers and self-employed. Article 2 of the law sets out conditions for a lawful exercise of the right to strike for the self-employed.

Respondents were unsure about cases decided by Labour Courts concerning admissibility or limits on the right of solo self-employed to strike or to organise collective protests (I do not know – 44%, no – 25%, yes – 25%, NA – 6%).³⁸

4.0 EU action for collective bargaining by the solo self-employed

The large majority of respondents (83%) said that it would be a **positive development** if competition law were not to stand in the way of collective bargaining by the solo self-employed. Among those that thought it would be a negative development (8%), the vast majority represented business associations or companies. The graph below shows how each category of respondents answered this question.³⁹ As shown below, the highest share of negative responses came from companies (45%) and business associations (41%). Business associations (21%) and public authorities (25%) had the highest share of do not know.

Figure 3 Do you think that it would be a positive or negative development if competition law were not to stand in the way of collective bargaining by solo self-employed by type of respondent⁴⁰



Source: EU Survey

The reasoning why respondents felt that this would be a positive development can be summarised as follows:

³⁷ <https://www.gazzettaufficiale.it/eli/id/1990/06/14/0090G190/sq>

³⁸ N=16

³⁹ Type of respondents who were represented by less than 10 responses were not included for the sake of clarity of the graph (this excludes consumer organisations and non-EU citizens). Business association, n=29; company/business organisation, n=11; EU citizen, n=119, Non-governmental organisation (NGO), n=15, Public authority, n=16; Trade union, n=44

⁴⁰ N=267

- Collective bargaining for self-employed is a fundamental right according to the ILO and the European Convention of Human Rights and the European Charter of Social Rights. This fundamental labour right applies regardless of employment status and cannot be conditional upon competition law. By removing EU competition law obstacles, the solo self-employed would enjoy more protection on the labour market.
- It would enable the weaker self-employed or vulnerable self-employed to negotiate collective agreements with their counterparts which would allow them to enjoy decent working conditions.

The reasoning why respondents felt that this would be a negative development can be summarised as follows:

- Prices would be distorted, and elements based on which the solo self-employed person or business can compete (price, work organisation, etc) would be eliminated;
- Flexibility opportunities for the solo self-employed would be reduced and they would have to work based on an exclusivity principle;
- Competition law at EU level might not be the most appropriate level to address the issue of collective bargaining.
- Consumers might suffer from higher prices.

A total of 46% of respondents did not know whether the collective negotiations towards companies to which or through which they sell their products by solo self-employed producing their own handmade goods (i.e. artisans) should be excluded from the application of EU competition law. However, 29% said that they should not be excluded and 25% said that they had to be excluded.⁴¹ Due to the formulation of the question⁴², it is possible that many respondents misinterpreted it and therefore it is difficult to draw any meaningful conclusions (the high share of “do not know” answers also indicate their possible lack of comprehension).

A total of 48% of respondents stated that professional customers would have to be micro enterprises (1 to employees) to allow collective bargaining agreements by the solo self-employed.⁴³

The opinion that collective bargaining for the solo self-employed **would increase their power** to negotiate with companies their payment and other working conditions was confirmed by 86% of respondents (completely agree – 64% and agree 22%).⁴⁴

5.1.1 Evaluating the potential impacts of EU action in Member State

The majority of respondents (62%) indicated that EU competition law should not stand in the way of collective bargaining by **all solo self-employed providing their own labour through digital labour platforms or in the off-line economy**. The distribution of all answers is provided in the graph below.

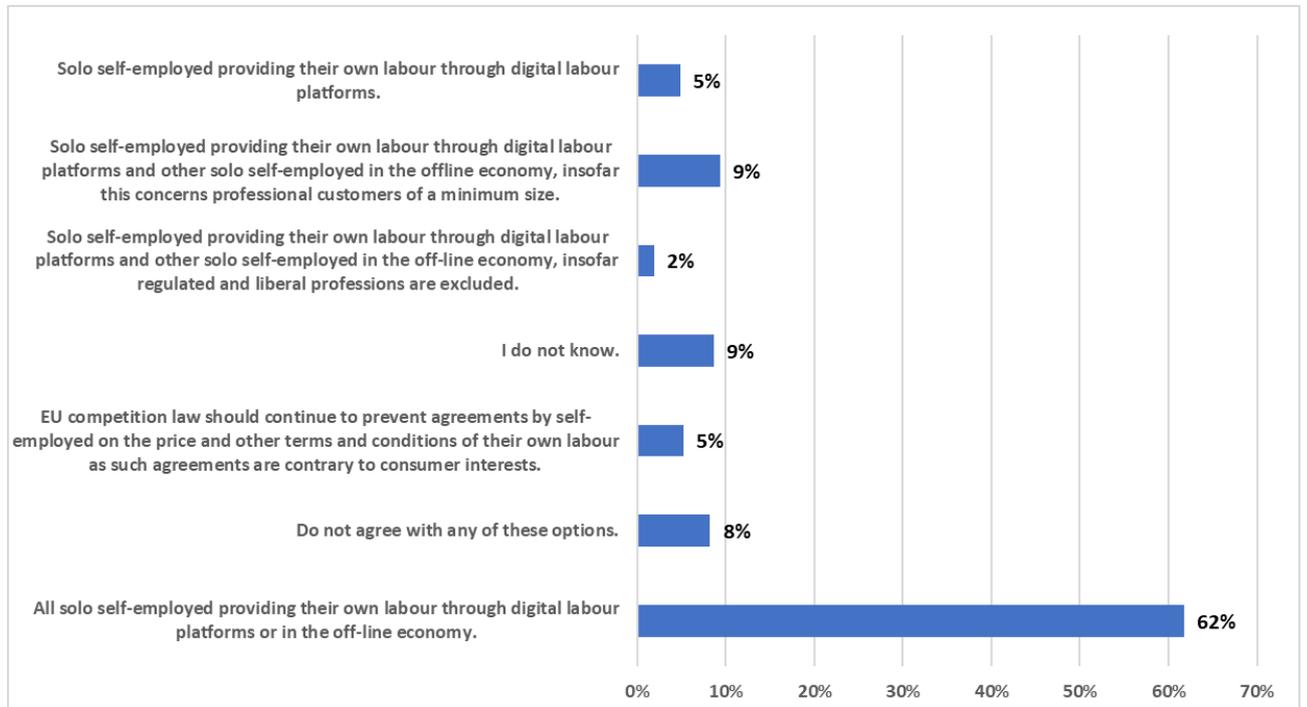
⁴¹N=267

⁴² In your view, should the collective negotiations towards companies to which or through which they sell their products by solo self-employed producing their own handmade goods (i.e. artisans) be excluded from the application of EU competition law?

⁴³N=25, the question was open only to those who selected Policy option 2: Solo self-employed providing their own labour through digital labour platforms and other solo self-employed in the offline economy, insofar as this concerns professional customers of a minimum size

⁴⁴N=267

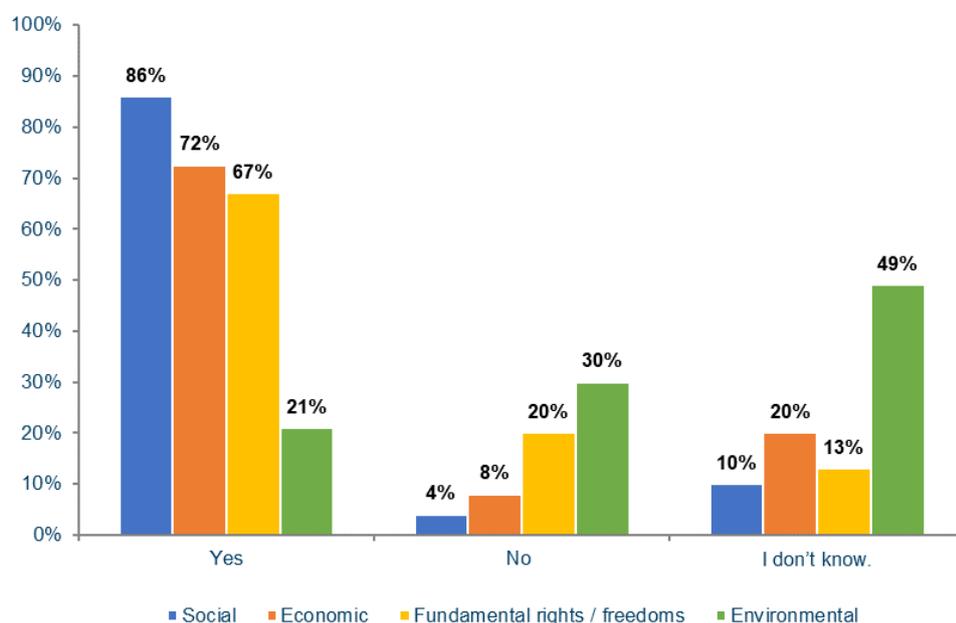
Figure 4 In your view, as explained in the Inception Impact Assessment, EU competition law should not stand in the way of collective bargaining by



Source: EU Survey, n=267

The majority of respondents expected that an initiative ensuring that EU competition law did not stand in the way of collective bargaining by the solo self-employed would lead to social (86%) and economic impacts (72%) and impacts on fundamental right and freedom (67%). On the other hand, in the relative majority of cases (49%) respondents are unsure about environmental impacts.

Figure 5 In your view, will an initiative ensuring that EU competition law does not stand in the way of collective bargaining by self-employed lead to any social, economic, impact on fundamental rights and freedoms and environmental impacts?⁴⁵



Source: EU Survey

Impacts per policy option

Overall, the majority of respondents expected **positive or very positive impacts** (be it social, economic or environmental) across all four categories of the self-employed. No significant differences have been observed for any of the policy options.

Option 1: Solo self-employed providing their own labour through digital labour platforms

Impacts	Assessment
Social impacts ⁴⁶	<ul style="list-style-type: none"> • Very positive and positive (70%) • Very negative and negative (6%) • No social impact (3%) • Don't know (15%)
Economic impacts ⁴⁷	<ul style="list-style-type: none"> • Very positive and positive (73%) • Very negative and negative (7%) • No economic impact (1%) • I do not know (17%)
Impact on fundamental rights and freedoms ⁴⁸	<ul style="list-style-type: none"> • Very positive and positive (84%) • Negative (4%) • No impact on fundamental rights and freedoms (1%) • Don't know (12%)

⁴⁵ The graph combines the answers from four separated questions. N=267 for all answers.

⁴⁶ N=229

⁴⁷ N=192

⁴⁸ N=180

Option 2: Solo self-employed providing their own labour through digital labour platforms and other solo self-employed in the offline economy, insofar as this concerns professional customers of a minimum size

Impacts	Assessment
Social impacts⁴⁹	<ul style="list-style-type: none"> • Very positive and positive (72%) • Very negative and negative (6%) • No social impact (1%) • Don't know (21%)
Economic impacts⁵⁰	<ul style="list-style-type: none"> • Very positive and positive (71%) • Very negative and negative (7%) • No economic impact (1%) • Don't know (21%)
Impact on fundamental rights and freedoms⁵¹	<ul style="list-style-type: none"> • Very positive and positive (79%) • Negative (6%) • No impact on fundamental rights and freedoms (1%) • Don't know (15%)

Option 3: Solo self-employed providing their own labour through digital labour platforms and other solo self-employed in the off-line economy, insofar as regulated and liberal professions are excluded

Impacts	Assessment
Social impacts⁵²	<ul style="list-style-type: none"> • Very positive and positive (61%) • Very negative and negative (8%) • No social impact (3%) • Don't know (28%)
Economic impacts⁵³	<ul style="list-style-type: none"> • Very positive and positive (63%) • Very negative and negative (10%) • No economic impact (2%) • Don't know (27%)
Impact on fundamental rights and freedoms⁵⁴	<ul style="list-style-type: none"> • Very positive and positive (73%) • Very negative and negative (8%) • Don't know (19%)

Option 4: All solo self-employed providing their own labour through digital labour platforms or in the off-line economy

Impacts	Assessment
Social impacts⁵⁵	<ul style="list-style-type: none"> • Very positive and positive (76%) • Very negative and negative (6%) • No social impact (1%) • Don't know (17%)
Economic impacts⁵⁶	<ul style="list-style-type: none"> • Very positive and positive (78%) • Very negative and negative (8%) • No economic impact (1%)

⁴⁹ N=229

⁵⁰ N=192

⁵¹ N=180

⁵² N=229

⁵³ N=192

⁵⁴ N=180

⁵⁵ N=229

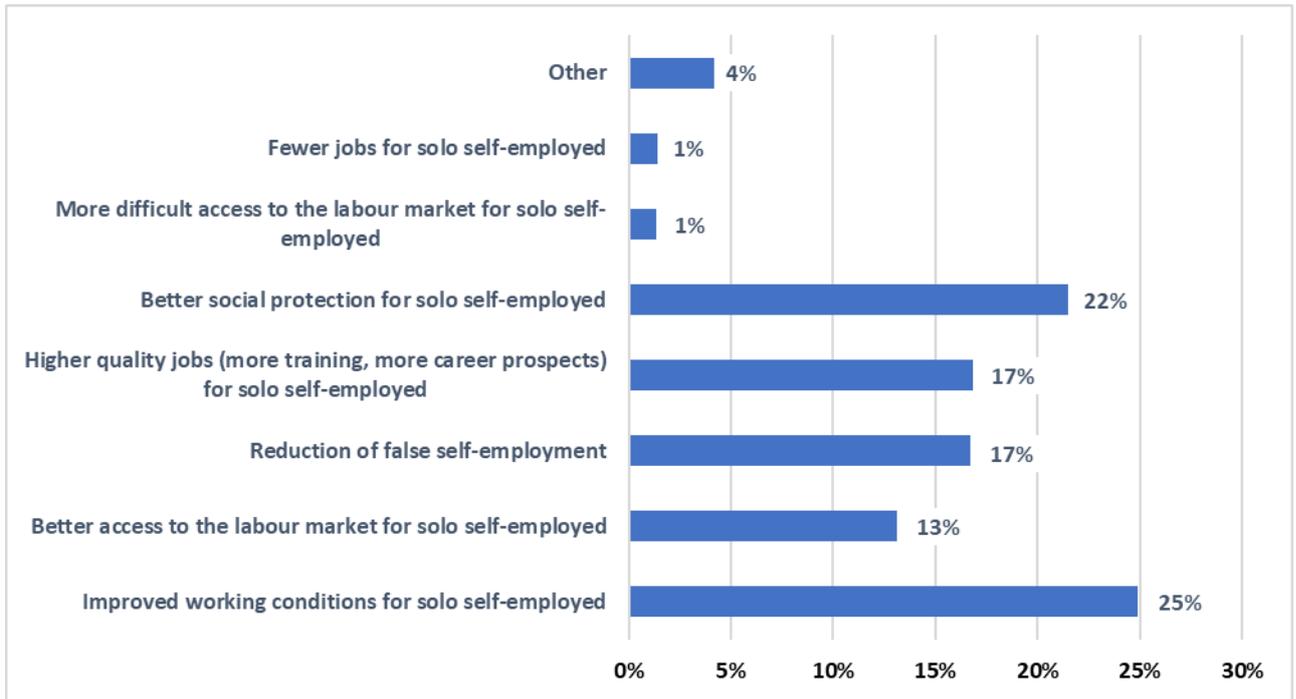
⁵⁶ N=192

	<ul style="list-style-type: none"> • Don't know (13%)
Impact on fundamental rights and freedoms⁵⁷	<ul style="list-style-type: none"> • Very positive and positive (83%) • Negative (4%) • Don't know (13%)

• *Assessment of specific impacts*

On social impacts, respondents thought that an EU initiative would especially lead to **improved working conditions for solo self-employed** (207 responses, corresponding to 25% of all responses) and **better social protection for solo self-employed** (179 responses, corresponding to 22% of all responses).

Figure 6 Please specify the social impacts you expect



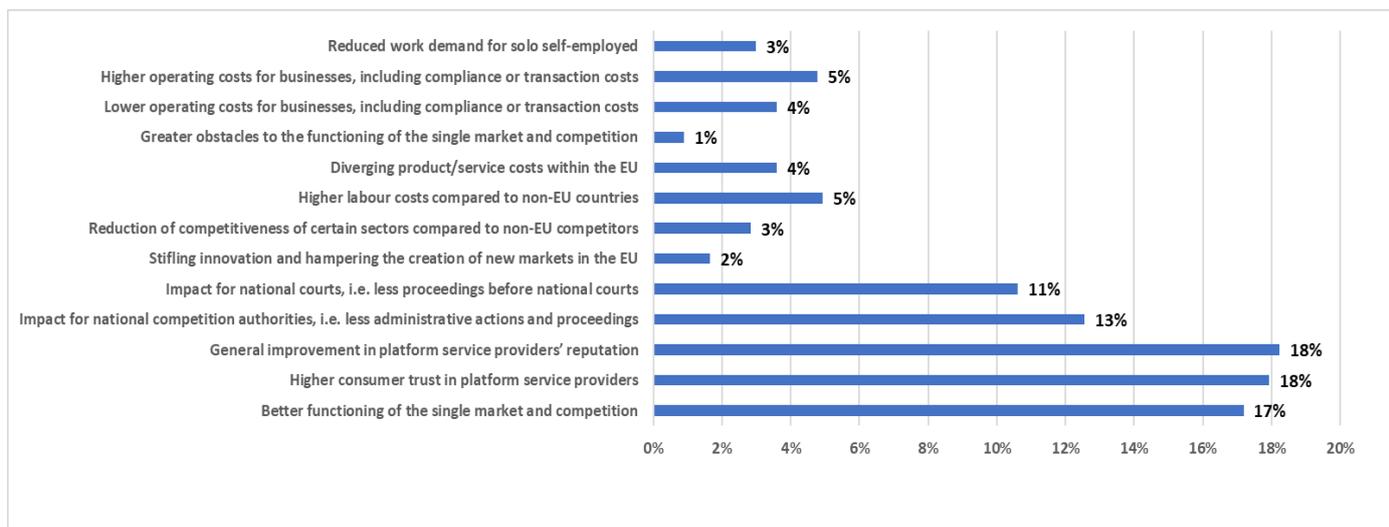
Source: EU Survey, N=832⁵⁸

In terms of economic impacts, **higher consumer trust in platform service providers** (120 responses, 21% of responses) and **general improvement in platform service providers' reputation** (122 responses, 18%) are most expected as results of an EU initiative in this field.

⁵⁷N=180

⁵⁸ Multiple choice question

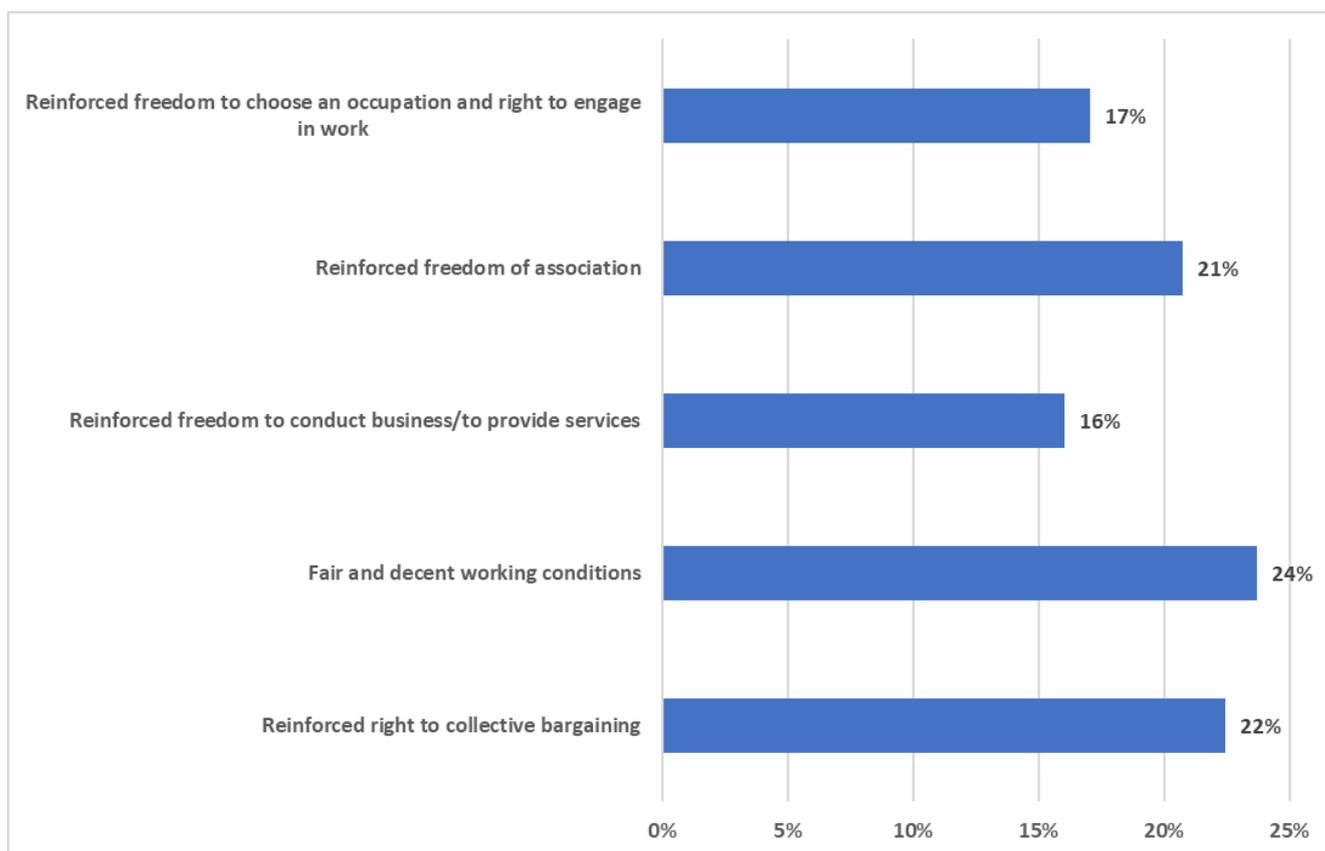
Figure 7 Please specify the economic impacts you expect



Source: EU Survey, N=669⁵⁹

In terms of impacts on fundamental rights and freedoms, **fair and decent working conditions** (167 responses, 24%) and **reinforced right to collective bargaining** (158 responses, 22%) are most frequently selected as being produced by an EU initiative.

Figure 8 Please specify the impacts on fundamental rights and freedoms you expect



⁵⁹ Multiple choice question

Source: EU Survey, N=704⁶⁰

5.1.2 Additional comments

To conclude the OPC, respondents were invited to provide further comments. The question received 99 answers. Most respondents echoed the previous arguments on the importance of enabling collective bargaining for the solo self-employed.

Some respondents considered the feasibility of policy options. A total of 12 respondents argued in favour of the policy option 4 and almost all of them represented the trade unions in the field of media, journalism and culture. They also used a similar wording to explain their positions, leading to a conclusion that they had probably developed a unified position through their pan-European networks. They expressed their concerns about a discriminatory approach that would exclude certain groups of self-employed from the possibility of collective negotiations based on arbitrarily chosen characteristics. Therefore, they completed that option 4 was based on a non-discriminatory approach and would make a difference. In addition, one public authority explained that option 4 would create a wide heterogeneous category, but it would ensure an easier implementation and enforcement by Member States, since it would overcome the challenge of determining the liberal/regulated professions given the lack of an EU definition.

⁶⁰ Multiple choice question



other
publications
and subscriptions

<https://europa.eu/!Tc4f4Y>

