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

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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)

Final report

13 October 2021

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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.

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Abstract

The information in this study is intended to help inform the Commission's Impact Assessment exercise in the context of a possible Commission initiative to improve the working conditions of the potentially vulnerable self-employed. The study draws on a wide range of quantitative and qualitative data sources. It then created a baseline scenario, which was compared to the four different policy options set out in the Commission's Inception Impact Assessment. For each of the four options, the study estimates impacts on: the number of self-employed potentially affected; pay rates; consumer prices; poverty rates; the state budget; and any wider impacts. The study estimates that that working conditions would improve for around 6.8 million platform workers after removing the chilling effect of EU competition law, and for an additional 4.1 million people if all solo self-employed are allowed to bargain collectively. It is expected that collective bargaining increases pay rates for those who cannot bargain individually on average by 15% (40% for the very low-paid). The resulting price increase is expected to be limited to 0.15% to 0.24%, depending on the policy option. Finally, a pay increase of 40% would elevate one-third of solo self-employed out of poverty.

Executive Summary

Aims, objectives and scope of the study

This Final Report has been prepared by Ecorys in response to the Request for Services (RfS) entitled: "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)" released in the context of the framework contract: 'Provision of services related to the implementation of Better Regulation Guidelines" (VT/2016/027)

This report is part of the European Commission's efforts to improve the working conditions of self-employed who may be vulnerable, including the growing number of platform workers in the EU labour market. Specifically, the information gathered in this study is intended to help inform the Commission's Impact Assessment exercise in the context of a possible Commission initiative. This initiative would aim to ensure that EU competition law does not stand in the way of improving working conditions through collective agreements for the self-employed who are in need of protection, while also ensuring legal certainty and that consumers still benefit from a competitive market. The initiative was launched on 6 January 2021.[1]

This Report covers data collected from all 27 EU Member States and 4 non-EU countries (USA, Canada, Australia and South Korea) between January 2021 and August 2021. The data sets consulted included:

- The EU Labour Force Survey in relation to self-employment and atypical forms of work;
- Eurostat microdata;
- the European Company Working Conditions Survey;
- The COLLEEM surveys in relation to platform workers.

The Ecorys team was also supported by the following panel of high-level experts during the assignment:

- **Professor Anthony Kerr,** Professor of Law, UCD Sutherland School of Law, Dublin;
- **Professor Frans Pennings**, Professor of Law, Economics and Governance, University of Utrecht;
- **Professor Massino Pallini**, Professor in Labour Law, University of Milan;
- **Professor Roberto Pedersini**, Professor of Sociology of Economic Processes and Work, University of Milan;
- **Professor Francesco Rossi dal Pozzo,** Professor of EU law, European Union Competition Law (including State Aid) and European Transport Law, University of Milan.
- **Nigel Meager,** independent labour economist.

Overview of the method

The data collection activities used to create this report were as follows:

- EU-level desk research and literature review, which also covered some selected non-EU countries, covering 110 different EU and international academic papers, studies, reports and publications;
- a mapping exercise covering national systems and measures in place regarding self-employed, collective bargaining rights, labour law and competition law in all EU Member States;

[1] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12483-Collective-bargaining-agreements-for-self-employed-scope-of-application-EU-competition-rules_en

- 14 interviews, carried out with EU author services and multipliers, as well as 98 interviews with various national stakeholders across all 27 EU Member States;
- Quantitative analysis of an online survey of self-employed people, implemented in cooperation with the survey house Dynata, gathering 3,819 replies from self-employed individuals in Austria, France, Germany, Italy, the Netherlands, Poland, Sweden and Spain;
- Quantitative and qualitative analysis of responses to the public consultation for the Digital Services Act (DSA) package, gathering responses from 1,280 individuals and 10 organisations from all EU Member States;
- Quantitative and qualitative analysis of responses to the public consultation on the Inception Impact Assessment regarding collective bargaining agreements for the self-employed, which received 309 responses from across the EU;
- Quantitative and qualitative analysis of responses to the Open Public Consultation on a study to support the impact assessment of a possible EU initiative related to the application of competition rules to collective bargaining by the self-employed, which received 267 responses from across the EU;
- Quantitative analysis of the EU Labour Force Survey dataset in relation to self-employment and atypical forms of work, Eurostat microdata, the European Company Working Conditions Survey and the COLLEEM surveys in relation to platform workers;
- The creation of clusters of EU Member States and a baseline scenario for the analysis, based on the collected data and the advice of the panel of high-level experts;
- An online expert workshop with six external experts and representatives of the European Commission to present and discuss the key conclusions of the analysis;

Ecorys maintained a close cooperation with the DG COMP team thoroughout the study, with feedback received throughout the different stages of the report.

Findings and conclusions of the study

Baseline scenario

Analysis of collected data revealed that the total number of the self-employed is decreasing overall. According to the EU Labour Force Survey dataset, the number of own-account self-employed, i.e. solo self-employed, in the EU27 decreased from 19.9 million in 2010 to 19.5 million in 2020. This decline was mainly driven by a drop in the number of agricultural workers – the number of solo-self-employed professionals and service and sales workers increased during this period.

Italy is the EU Member State with the largest number of own-account self-employed, with over 3.4 million workers in 2020 despite a decline in the preceding decade. The number of own-account self-employed also declined in Germany, whereas in Spain and France, own-account self-employed increased. In Poland, the number of own-account self-employed stayed relatively stable at about 2.3 million workers.

The share of male and female self-employed in the EU remained relatively stable over the period between 2010 and 2020 (34-35% female, 66-65% male), with women being more dominant as clerical support workers and service and sales workers and men dominating craft and related trades workers, plant and machine operators and assemblers, and elementary occupations.

Data also shows that the weight of new forms of self-employment, such as platform workers and professional self-employed without employees, is increasing significantly in the EU labour market. According to the COLLEEM I and II studies of 2020, the number of marginal platform workers (working every month but both less than 10 hours per week of work and less than 25% of personal income) almost doubled between 2017 and 2018 from 1.6% to 3.1% of all adults aged 16-74 in 14 Member States. The number of sporadic platform workers (working less than monthly through platforms) also increased, from 1.9% to 2.4%. In addition, the number of

people carrying out platform work as a secondary job increased between from 3.6% to 4.1% of all adults aged 16-74 in 14 EU Member States. Platform work as a main job remains a limited phenomenon in the EU.

Knowledge of these new forms of work is increasing but it is still quite limited and statistics encounter difficulties in capturing such fragmented and diversified phenomena. This is compounded by the fact that Member States do not adopt the same definition of self-employment, which varies according to different concepts (independence, self-organisation, etc.) from country to country. This creates a challenging legal environment in terms of implementing an EU-wide policy. This was also supported by the interviews with EU-level experts, who acknowledged that the imprecise definition of self-employment and challenges relating to the different types of self-employed and the work that they undertake, although not a new problem, does have an impact on the working conditions of self-employment and the level of protection provided. In terms of the issue of false self-employment, available data has shown that this phenomenon is widespread in many Member States but also that it is almost impossible to obtain detailed information on false self-employment due to lack of data and clear definitions of false self-employment in many EU Member States.

Regarding the interactions between competition law and the rights of the self-employed, the analysis revealed that there is a general agreement on the fact that EU competition law should better embrace the rights and needs of self-employed and ensure their right to collective bargaining. All interviewees recognised the challenges raised by the new and evolving features of self-employment and the inadequacy of existing regulation governing these workers, and particularly platform workers. New technologies are changing contractual relationships and interviewees stressed that labour and competition laws are not sufficiently up to date and flexible enough to include these new contracting forms.

Collected data also highlighted that there is an emerging need to better enforce the rights of solo self-employed across the EU. Survey data showed that levels of satisfaction with certain elements of working conditions are very low, particularly the coverage of sickness and pensions, pay and income and leave arrangements. A significant number of survey respondents did not feel able or did not know whether they were able to change their working conditions, mostly due to high levels of competition in their sector but also due to not belonging to a trade union. While some respondents indicated that they were permanently or occasionally covered by a collective agreement on employment conditions, other collected data confirmed that this was not a common phenomenon among solo self-employed in the EU and that union density among self-employed, particularly platform workers, is still not very developed.

It should be noted that a relatively large number of survey respondents agreed that collective actions - such as joining a trade union, strikes or collective bargaining agreements - are an effective way to improve their negotiation powers with clients. A majority of respondents was also positive about the idea of an initiative to exclude from the prohibition of cartels collective agreements that regulate the working conditions of self-employed people. In their opinion, legal initiatives for a minimum wage, social security coverage and improvements in labour conditions should join an EU initiative for collective bargaining. However, some deal of uncertainty around this initiative (and what approach the EU would take) remained. Research also indicated that dedicated regulatory rules to address any negative social and economic effects of the gatekeeper role exercised by large online platforms over the whole platform ecosystem could also be considered and would play a role in ensuring that individuals providing services through online platforms could organise themselves for collective purposes.

Overall, the research indicated that respondents expected that the initiative would produce positive or very positive social, economic and environmental impacts across all categories of the self-employed. In terms of social impacts, there was some expectation for improved working conditions for solo self-employed and better social protection for solo self-employed. In terms of economic impacts, higher consumer trust in platform service providers and general improvement in platform service providers' reputation were expected to emerge from this initiative. Fair and decent working conditions and a reinforced right to collective bargaining are the main positive impacts on fundamental rights that were expected to result from this initiative. No major environmental impacts were identified through the research.

Regarding other non-EU countries surveyed for this report, research showed that they are facing similar problems in regulating new forms of self-employment and that an overview of some experiences in the USA,

Canada, Australia and South Korea would be relevant to inform EU action in this area. These countries are dealing with the same issues highlighted above (such as legal definition of self-employment, coherence between competition law and labour rights). Canada and Australia allow collective bargaining for self-employed with essentially quite simple and realistic approaches, while the USA and South Korea do not allow collective bargaining but are committed to better defining and regulating self-employed work.

Based on analysis of the data collected, five EU country clusters were created to support the impact assessment. The five clusters are as follows:

- *Cluster 1: Legal system where all solo self-employed are allowed to bargain collectively*
  - Poland
- *Cluster 2: Legal systems where all self-employed are prevented from collective bargaining*
  - Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, Hungary, Latvia, Lithuania, Luxembourg, Malta, Romania, Slovakia
- *Cluster 3: Legal systems where (some) self-employed are allowed to bargain collectively, under labour law, on the basis of an economic dependence criterion*
  - Germany, Portugal, Slovenia, Spain, Sweden
- *Cluster 4: Legal systems where (some) self-employed are allowed to bargain collectively, under labour law, on the basis of the specific sectors they work in and/or on the basis of a specific category they belong to*
  - Austria, France, Greece, Italy, Portugal, Spain
- *Cluster 5: Legal systems where either (i) national competition law provides an exception to the application of the cartel prohibition so that (some) self-employed can bargain collectively or (ii) national competition authorities have adopted guidelines according to which they will not enforce the cartel prohibition against (some) self-employed under certain conditions*
  - Ireland, Netherlands

Impact Assessment

Starting from the baseline scenario described above, an impact assessment of the different policy options under evaluation was developed, with indicators being developed based on likely impacts identified in Toolbox 29[2] and Toolbox 32[3] of the Better Regulation Guidelines. The Charter of Fundamental Rights[4] was used to develop indicators for likely impacts on fundamental rights. The following indicators were set for this exercise:

- *Socio-economic indicators for impact of collective bargaining of self-employed, platform workers and other atypical workers on:*
  - Employment levels
  - Total employment
  - Total employment in large and small companies
  - Labour supply and required skills
  - Wages and purchasing power
  - Employment protection
  - Undeclared work

[2] https://ec.europa.eu/info/files/better-regulation-toolbox-29_en
[3] https://ec.europa.eu/info/sites/default/files/file_import/better-regulation-toolbox-32_en_0.pdf
[4] See https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12016P/TXT&from=EN

- Organisation of work and working hours
- Health and safety at work and access to training
- Social Dialogue

- *Social indicators for impact of collective bargaining of self-employed, platform workers and other atypical workers on:*
  - Proportions of self-employed working on their own as their main and as a secondary job
  - Earnings rates of self-employed per sector/activity
  - Distribution of number of work days per year of self-employed
  - Risk-of-poverty rate of self-employed and of employees
  - Gap between actual income and risk-of-poverty threshold
  - Legal coverage by social security for self-employed, specifically coverage of disability and old age
  - Actual coverage by social security
  - Other indicators of work satisfaction of self-employed
  - Access to basic goods and services
  - Consumer prices
  - Savings
- *Fundamental rights indicators for impact of collective bargaining of self-employed, platform workers and other atypical workers on:*
  - Right of collective bargaining
  - Employment protection
  - Fair working conditions
  - Social protection
  - Right to information and consultation of workers
  - Right to combine professional and family life

This baseline scenario was then compared to the different policy options about cost-effectiveness and coherence with other EU rules and objectives. The different policy options under review were defined in the Inception Impact Assessment published on 6 January 2021[5] which are as follows:

- *Option 1: all solo self-employed providing their own labour through digital labour platforms.*
- *Option 2: all solo self-employed providing their own labour through digital labour platforms or to professional customers of a certain minimum size.*
- *Option 3: All solo self-employed providing their own labour through digital platforms or to professional customers of any size with the exception of regulated (and liberal) professions.*
- *Option 4: All solo self-employed providing their own labour through digital labour platforms or to professional customers of any size.*

All projections used the period 2020-2030 as a reference point for the analysis, to conform with available data on EU employment and labour market trends.

[5] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12483-Collective-bargaining-agreements-for-self-employed-scope-of-application-EU-competition-rules_en

Key Findings

Regarding **the number of self-employed potentially affected by this initiative**, the numbers vary depending on the option chosen by the European Commission and the legal characteristics of each EU member state (as described in the clusters above). Because collective bargaining does not always take place if allowed and because some may be able to bargain better working conditions invididually, working conditions need not improve for all of them.

- For Option 1, an estimated total of 20.5 million platform workers in 2030 (measured in full-time equivalents) is potentially affected by this initiative and for 6.8 million working of them conditions are estimated to improve.
- For Option 2, an estimated total of 21.7 million self-employed and platform workers are potentially affected by this initiative in 2030, with estimated improved working conditions for 7.0 million of them.
- For Option 3, an estimated total of 24.1 million self-employed and platform workers are potentially affected by this initiative in 2030, with estimated improved working conditions for 9.3 million of them.
- For Option 4, an estimated total of 35.1 million self-employed and platform workers are potentially affected by this initiative in 2030, with improved working conditions for 10.9 million of them.

Regarding **the expected changes in pay rates,** a very small number of collective agreements have been concluded in the EU that cover platform workers or self-employed not working through platforms and even fewer are related to pay conditions. From the analysis of this limited dataset and a review of exisiting academic literature on the impact of collective agreements, it was extrapolated that the assumed pay increases after collective bargaining for all Member States and all policy options would result in a 15% increase on average and a 40% increase for solo self-employed at risk of poverty.

Regarding the **expected impacts on consumer prices,** it was estimated that if the pay rates of everyone who is potentially affected increases by +15% on average, customer prices may be expected to 0.15% to 0.24% compared to the chilling effect variant, and by 0.12% to 0.18% compared to the national enforcement variant (taking account of national non-enforcement of the collective bargaining prohibition for specific groups of platform workers and self-employed, in which case working conditions may already improve or have improved), depending on the chosen policy option. It is assumed that on average 85% of the cost increase is passed on to customers.

- For Option 1, it was estimated that there would be an average increase of 0.15% on consumer prices (chilling effect variant) and 0.12% (national enforcement variant) at EU level
- For Option 2, it was also estimated that there would be an average increase of 0.15% on consumer prices (chilling effect variant) and 0.13% (national enforcement variant) at EU level
- For Option 3, it was estimated that there would be an average increase of 0.20% on consumer prices (chilling effect variant) and 0.15% (national enforcement variant) at EU level
- For Option 4 , it was estimated that there would be an average increase of 0.24% on consumer prices (chilling effect variant) and 0.18% (national enforcement variant) at EU level

Concerning the **expected impacts on poverty rates,** no estimation for the impact of policy option 1 was possible due to the lack of reliable data regarding the poverty rate of platform workers. This similarly affected the analysis of the impact of policy option 2 since it also covers the same group. Regarding policy option 3, this is estimated to reduce the poverty rate among self-employed (excluding those in liberal professions) from 35% to 24% in 2030 and 30% of the households in this group to be lifted out of poverty. For policy option 4, this is estimated to reduce the poverty rate among all self-employed from 30% to 20% in 2030 and 32% of the households in this group to be lifted out of poverty.

Concerning the **impact on the state budget,** the increased pay of solo self-employed working for professional customers is expected to have unquantifiable effects on tax revenues, although it can be noted that the value of future increases in tax revenues resulting from price increases is generally largely negated by inflation when

expressed in today's prices. Due to a lack of data, the share of services provided to the State by for example pro deo lawyers and urban planners could not be estimated. Because only 10% of solo self-employed take up minimum income support (compared to 30% on average) a 40% pay increase of the lowest pay rates would reduce State expenditures on income support of solo self-employed by only EUR 1 billion at the EU level. The expected savings on minimum income support of platform workers should be much higher, but could not be estimated due to a lack of data.

In terms of other **potential wider impacts**, it was found that, due to higher pay rates for self-employed resulting from the policy options, a shift in hiring strategies from companies could be expected to compensate for this change. Regarding employee displacement by self-employed, no noticeable changes were observable. An increase in the certainty of an adequate annual income would probably lead to a reduction of precautionary savings by self-employed, leading thus to an expected increase of consumption spending in this group and more overall revenue for other sectors as described above.

Final Conclusions

In a projection to 2030, about 20,5 million people (in full-time equivalents) are expected to work through platforms and about 14.6 million solo self-employed who are not farmers, shop owners or restaurant owners work through other channels. About half of the platform workers work on location, where platform workers have to be physically at certain places, and the other half work online. On location work is typically associated with low-skilled and low-paid work, and online work with higher-skilled work. About 5.4 million FTE[6] of platform workers or 26% are expected to work in liberal professions in 2030. The solo self-employed working through other channels than platforms are also a diverse group, with an expected 5.7 million people or 39% of the solo self-employed expected to work in liberal professions in 2030.

While all of these are potentially affected by removing the chilling option of EU competition law on collective bargaining, it is important to be aware that it takes two sides to bargain collectively. As is the case for employees, employers are not always interested in a collective agreement. In addition, about half of the solo self-employed indicated in an online survey that they could bargain better working conditions individually, with a similar percentage for solo self-employed platform workers.

Taking account of this, it is estimated that working conditions would improve for about 6.8 million platform workers after removing the chilling effect of EU competition law, and for an additional 4.1 million people if all solo self-employed are allowed to bargain collectively (a total of 10.9 million in policy option 4). Over 90 per cent of the solo self-employed who do not work through platforms are hired by enterprises with less than 10 employees. Hence, only removing the chilling effect of EU competition law for collective bargaining with larger undertakings (policy option 2) is estimated to result in improved working conditions for only 200 thousand solo self-employed not working through platforms. If the chilling effect is removed for all self-employed and platform workers except those in liberal professions, the number of people expected to profit from a collective agreement drops from 10.9 million (policy option 4) to 9.3 million (policy option 3).

It is expected that collective bargaining increases pay rates for those who cannot bargain better working conditions individually on average by 15%. However, for very low pay rates (equivalent to about EUR 7 per hour), pay rates are estimated to increase by 40%. Of the expected 15% pay rate increase, about 85% is expected to be passed on to consumers. Since the maximum number of 10.9 million self-employed and platform workers expected to be covered by a collective agreement is only a small part of the total workforce, the resulting price increase is expected to be limited to 0.15% to 0.24% depending on the policy option, compared to the chilling effect variant.

Of the solo self-employed not working through platforms, about one third is at risk of poverty. A pay increase of 40% would elevate one third of these out of poverty. Besides the self-employed, on average three additional

[6] Full-time equivalents, which weights each person with the hours per week they work on average compared to full-time hours (about 40 hours per week)

household members would be lifted out of poverty at the same time. This pay increase in addition increases the certainty of adequate income at annual level and is expected to reduce the need of precautionary savings in economic downturns. Although this would theoretically make the economy more stable, any effect is likely small due to the relatively small number of people affected.

Résumé

Buts, objectifs et portée de l'étude

Ce rapport final a été préparé par Ecorys en réponse à la demande de services intitulée «Étude visant à soutenir l'évaluation de l'impact d'une éventuelle initiative de l'UE concernant l'application des règles de concurrence aux négociations collectives des indépendants (COMP/2020/008)» et publiée dans le contexte du contrat-cadre «Fourniture de services relatifs à la mise en œuvre des lignes directrices pour une meilleure réglementation» (VT/2016/027).

Ce rapport s'inscrit dans le cadre des efforts de la Commission européenne pour améliorer les conditions de travail des indépendants potentiellement vulnérables, notamment le nombre croissant de travailleurs via les plateformes sur le marché du travail de l'UE. Plus précisément, les informations recueillies dans le cadre de cette étude sont destinées à contribuer à l'exercice d'évaluation de l'impact de la Commission dans le contexte d'une éventuelle initiative de la Commission. Cette initiative viserait à garantir que le droit européen de la concurrence ne fasse pas obstacle à l'amélioration des conditions de travail par le biais de conventions collectives pour les indépendants qui ont besoin de protection, tout en garantissant la sécurité juridique et en veillant à ce que les consommateurs continuent à bénéficier d'un marché concurrentiel. L'initiative a été lancée le 6 janvier 2021.[7]

Ce rapport couvre les données recueillies auprès des 27 États membres de l'UE et de quatre pays non membres de l'UE (États-Unis, Canada, Australie et Corée du Sud) entre janvier 2021 et août 2021. Les ensembles de données consultés comprennent:

- l'enquête sur les forces de travail de l'UE en matière de travail indépendant et de formes de travail atypiques;
- les microdonnées d'Eurostat;
- l'enquête sur les conditions de travail dans les entreprises européennes;
- les enquêtes COLLEEM sur les travailleurs des plateformes.

L'équipe d'Ecorys a également été soutenue par le panel suivant d'experts de haut niveau pendant la mission:

- **Professeur Anthony Kerr,** professeur de droit, UCD Sutherland School of Law, Dublin;
- **Professeur Frans Pennings**, professeur de droit, d'économie et de gouvernance, Université d'Utrecht;
- **Professeur Massino Pallini**, professeur de droit du travail, Université de Milan;
- **Professeur Roberto Pedersini**, professeur de sociologie des processus économiques et du travail, université de Milan;
- **Professeur Francesco Rossi dal Pozzo,** professeur de droit communautaire, de droit de la concurrence de l'Union européenne (y compris les aides d'État) et de droit européen des transports, Université de Milan;
- **Nigel Meager,** économiste du travail indépendant.

Aperçu de la méthode

Les activités de collecte de données utilisées pour créer ce rapport ont été les suivantes:

[7] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12483-Conventions-collectives-pour-les-travailleurs-independants-champ-d%E2%80%99application-des-regles-de-concurrence-de-l%E2%80%99UE_fr

- une recherche documentaire et une analyse de la littérature au niveau de l'UE, qui a également porté sur certains pays non membres de l'UE, couvrant 110 articles, études, rapports et publications universitaires européens et internationaux;
- un exercice de cartographie couvrant les mesures et les systèmes nationaux en place concernant les indépendants, les droits de négociation collective, le droit du travail et le droit de la concurrence dans tous les États membres de l'UE;
- 14 entretiens, réalisés auprès des services des auteurs et de relais au sein de l'UE, ainsi que 98 entretiens avec diverses parties prenantes nationales dans les 27 États membres de l'UE;
- une analyse quantitative d'une enquête en ligne auprès des indépendants, réalisée en coopération avec l'institut de sondage Dynata, qui a recueilli 3 819 réponses d'indépendants en Autriche, en France, en Allemagne, en Italie, aux Pays-Bas, en Pologne, en Suède et en Espagne;
- une analyse quantitative et qualitative des réponses à la consultation publique sur le paquet relatif à la législation sur les services numériques («Digital Services Act» ou DSA), qui a recueilli les réponses de 1 280 personnes et de 10 organisations de tous les États membres de l'UE;
- une analyse quantitative et qualitative des réponses à la consultation publique sur l'évaluation de l'impact initial concernant les conventions collectives pour les indépendants, qui a reçu 309 réponses à l'échelle de l'UE;
- une analyse quantitative et qualitative des réponses à la consultation publique ouverte sur une étude visant à soutenir l'évaluation de l'impact d'une éventuelle initiative de l'UE concernant l'application des règles de concurrence aux négociations collectives des indépendants, qui a reçu 267 réponses à l'échelle de l'UE;
- une analyse quantitative des données de l'enquête sur les forces de travail de l'UE en matière de travail indépendant et de formes de travail atypiques, les microdonnées d'Eurostat, l'enquête sur les conditions de travail dans les entreprises européennes et les enquêtes COLLEEM en ce qui concerne les travailleurs des plateformes;
- la création de regroupements d'États membres de l'UE et d'un scénario de base pour l'analyse, reposant sur des données collectées et des conseils du panel d'experts de haut niveau;
- un atelier d'experts en ligne avec six experts externes et représentants de la Commission européenne pour présenter et discuter les principales conclusions de l'analyse.

Ecorys a maintenu une coopération étroite avec l'équipe de la DG COMP tout au long de l'étude, avec un retour d'information au fil des différentes étapes du rapport.

Résultats et conclusions de l'étude

Scénario de base

L'analyse des données collectées a révélé que le nombre total d'indépendants est globalement en baisse. Selon les données de l'enquête de l'UE sur les forces de travail, le nombre de travailleurs indépendants à leur propre compte, c'est-à-dire de travailleurs indépendants sans salariés, dans l'UE des 27 a diminué, passant de 19,9 millions en 2010 à 19,5 millions en 2020. Cette baisse est principalement due à une diminution du nombre de travailleurs agricoles — le nombre de professionnels indépendants sans salariés et de travailleurs des services et de la vente ayant augmenté au cours de cette période.

L'Italie est l'État membre de l'UE qui compte le plus grand nombre de travailleurs indépendants à leur propre compte, avec plus de 3,4 millions de travailleurs en 2020, malgré une baisse au cours de la décennie précédente. Le nombre de travailleurs indépendants à leur propre compte a également diminué en Allemagne, tandis qu'en Espagne et en France, ce nombre a augmenté. En Pologne, le nombre de travailleurs indépendants à leur propre compte est resté relativement stable à environ 2,3 millions de travailleurs.

La part des travailleurs indépendants masculins et féminins dans l'UE est restée relativement stable au cours de la période 2010-2020 (34 à 35 % de femmes contre 66 à 65 % d'hommes), les femmes étant plus représentées dans le secteur des employés de bureau et des travailleurs des services et de la vente, tandis que les hommes sont plus représentés dans les secteurs de l'artisanat et des métiers connexes, de la conduite d'installations et de machines et de l'assemblage, ainsi que dans les professions élémentaires.

Les données montrent également que le poids des nouvelles formes de travail indépendant, telles que les travailleurs des plateformes et les indépendants professionnels sans salariés, augmente de manière significative sur le marché du travail de l'UE. Selon les études COLLEEM I et II de 2020, le nombre de travailleurs des plateformes marginaux (travaillant tous les mois, mais à la fois moins de 10 heures par semaine et gagnant moins de 25 % de revenus personnels) a presque doublé entre 2017 et 2018, passant de 1,6 % à 3,1 % de tous les adultes âgés de 16 à 74 ans dans 14 États membres. Le nombre de travailleurs sporadiques des plateformes (travaillant moins d'une fois par mois par le biais de plateformes) a également augmenté, passant de 1,9 % à 2,4 %. En outre, le nombre de personnes exerçant un emploi secondaire sur une plateforme a augmenté, passant de 3,6 % à 4,1 % de l'ensemble des adultes âgés de 16 à 74 ans dans 14 États membres de l'UE. Le travail sur plateforme en tant qu'emploi principal reste un phénomène réduit dans l'UE.

Les connaissances sur ces nouvelles formes de travail progresse, mais elles restent assez limitées et les statistiques ont du mal à rendre compte de phénomènes aussi fragmentés et diversifiés. Cette situation est aggravée par le fait que les États membres n'adoptent pas la même définition du travail indépendant, qui varie selon différents concepts (indépendance, auto-organisation, etc.) d'un pays à l'autre. Cela génère un environnement juridique difficile en termes de mise en œuvre d'une politique à l'échelle de l'Union européenne. Cette constatation a également été confirmée par les entretiens avec les experts au niveau de l'UE, qui ont reconnu que la définition imprécise du travail indépendant et les défis liés aux différents types d'indépendants et au travail qu'ils entreprennent, bien que n'étant pas un problème nouveau, ont un impact sur les conditions de travail des indépendants et le niveau de protection fourni. En ce qui concerne la question du faux travail indépendant, les données disponibles ont montré que ce phénomène est répandu dans de nombreux États membres, mais aussi qu'il est presque impossible d'obtenir des informations détaillées sur le faux travail indépendant en raison du manque de données et de définitions claires de ce concept dans de nombreux États membres de l'UE.

En ce qui concerne les interactions entre le droit de la concurrence et les droits des indépendants, l'analyse a révélé qu'il existe un accord général sur le fait que le droit européen de la concurrence devrait mieux prendre en compte les droits et les besoins des indépendants et garantir leur droit à la négociation collective. Toutes les personnes interrogées ont reconnu les défis posés par les caractéristiques nouvelles et évolutives du travail indépendant et l'inadéquation de la réglementation existante régissant ces travailleurs, et en particulier les travailleurs des plateformes. Les nouvelles technologies modifient les relations contractuelles et les personnes interrogées ont souligné que les lois sur le travail et la concurrence ne sont pas suffisamment à jour et flexibles pour intégrer ces nouvelles formes de contrat.

Les données recueillies ont également mis en évidence le besoin émergent de mieux faire respecter les droits des travailleurs indépendants sans salariés dans l'UE. Les données d'enquête ont montré que les niveaux de satisfaction à l'égard de certains éléments des conditions de travail sont très faibles, en particulier l'assurance maladie et les pensions, le salaire et le revenu, ainsi que les modalités de congé. Un nombre important de participants à l'enquête ne se sentaient pas en mesure de modifier leurs conditions de travail ou ne savaient pas s'ils pouvaient le faire, principalement en raison des niveaux élevés de concurrence dans leur secteur, mais aussi parce qu'ils n'appartenaient pas à un syndicat. Alors que certains participants ont indiqué qu'ils étaient couverts en permanence ou occasionnellement par une convention collective sur les conditions d'emploi, d'autres données collectées ont confirmé qu'il ne s'agissait pas d'un phénomène courant parmi les indépendants sans salariés dans l'UE et que le taux de syndicalisation parmi les indépendants, en particulier les travailleurs des plateformes, n'est pas encore très développé.

Il convient de noter qu'un nombre relativement important de participants à l'enquête ont convenu que les actions collectives — telles que l'adhésion à un syndicat, les grèves ou les conventions collectives — sont un moyen efficace d'améliorer leur pouvoir de négociation avec les clients. Une majorité de participants a également

accueilli favorablement l'idée d'une initiative visant à exclure de l'interdiction des ententes, les conventions collectives qui réglementent les conditions de travail des indépendants. Selon eux, les initiatives légales en faveur d'un salaire minimum, d'une couverture sociale et de l'amélioration des conditions de travail devraient se joindre à une initiative européenne pour les négociations collectives. Toutefois, il demeure une certaine incertitude autour de cette initiative (et de l'approche que l'UE est susceptible d'adopter). La recherche a également indiqué que des dispositions réglementaires spécifiques visant à remédier à tout effet social et économique négatif du rôle de gardien exercé par les grandes plateformes en ligne sur l'ensemble de l'écosystème des plateformes pourraient également être envisagées; elles contribueraient à garantir que les personnes fournissant des services par l'intermédiaire de plateformes en ligne puissent s'organiser à des fins collectives.

Dans l'ensemble, les recherches ont indiqué que les participants attendaient des impacts sociaux, économiques et environnementaux positifs, voire très positifs, de l'initiative pour toutes les catégories d'indépendants. En termes d'impacts sociaux, les participants s'attendaient à une amélioration des conditions de travail et de la protection sociale des travailleurs indépendants sans salariés. En termes d'impacts économiques, les participants s'attendaient à ce qu'une plus grande confiance des consommateurs dans les fournisseurs de services de plateforme, ainsi qu'une amélioration générale de la réputation des fournisseurs de services de plateforme, émergent de l'initiative. Des conditions de travail justes et décentes et un droit renforcé à la négociation collective sont les principaux impacts positifs sur les droits fondamentaux qui devaient résulter de cette initiative. Aucun impact environnemental majeur n'a été identifié dans le cadre de la recherche.

En ce qui concerne les autres pays non membres de l'UE étudiés dans ce rapport, la recherche a montré qu'ils sont confrontés à des problèmes similaires en matière de réglementation des nouvelles formes de travail indépendant et qu'un aperçu de certaines expériences aux États-Unis, au Canada, en Australie et en Corée du Sud serait pertinent pour façonner les mesures de l'UE dans ce domaine. Ces pays traitent des mêmes questions que celles soulignées ci-dessus (telles que la définition légale du travail indépendant ou la cohérence entre le droit de la concurrence et le droit des travailleurs). Le Canada et l'Australie autorisent la négociation collective pour les indépendants avec des approches essentiellement assez simples et réalistes, tandis que les États-Unis et la Corée du Sud n'autorisent pas la négociation collective, mais s'engagent à mieux définir et réglementer le travail indépendant.

Sur la base de l'analyse des données collectées, cinq groupes de pays de l'UE ont été créés pour soutenir l'évaluation de l'impact. Ces cinq groupes sont les suivants:

- *Groupe 1: Système juridique dans lequel tous les travailleurs indépendants sans salariés sont autorisés à négocier collectivement.*
  - Pologne
- *Groupe 2: Systèmes juridiques dans lesquels tous les indépendants sont empêchés de négocier collectivement*
  - Belgique, Bulgarie, Croatie, Chypre, , Danemark, Estonie, Finlande, Hongrie, Lettonie, Lituanie, Luxembourg, Malte, République tchèque, Roumanie, Slovaquie
- *Groupe 3: Systèmes juridiques dans lesquels (certains) travailleurs indépendants sont autorisés à négocier collectivement, en vertu du droit du travail, sur la base d'un critère de dépendance économique*
  - Allemagne, Espagne, Portugal, Slovénie, , Suède
- *Groupe 4: Systèmes juridiques dans lesquels (certains) indépendants sont autorisés à négocier collectivement, en vertu du droit du travail, sur la base des secteurs spécifiques dans lesquels ils travaillent ou sur la base d'une catégorie spécifique à laquelle ils appartiennent*
  - Autriche, Espagne, France, Grèce, Italie, Portugal,
- *Groupe 5: Systèmes juridiques dans lesquels soit (i) le droit national de la concurrence prévoit une exception à l'application de l'interdiction des cartels afin que (certains) indépendants puissent négocier collectivement, soit (ii) les autorités nationales de la concurrence ont adopté des lignes directrices selon*

lesquelles elles n'appliqueront pas l'interdiction des cartels à l'encontre de (certains) indépendants dans certaines conditions

- Irlande, Pays-Bas

Évaluation de l'impact

À partir du scénario de base décrit ci-dessus, une évaluation de l'impact des différentes options évaluées a été réalisée, les indicateurs étant élaborés sur la base des impacts probables identifiés dans les boîtes à outils 29[8] et 32[9] des lignes directrices pour une meilleure réglementation. La Charte des droits fondamentaux[10] a été utilisée pour développer des indicateurs d'impacts probables sur les droits fondamentaux. Les indicateurs suivants ont été fixés pour cet exercice:

- *Indicateurs socio-économiques de l'impact de la négociation collective des indépendants, des travailleurs des plateformes et d'autres travailleurs atypiques sur:*
  - les niveaux d'emploi
  - l'emploi total
  - l'emploi total dans les grandes et petites entreprises
  - l'offre de main-d'œuvre et les compétences requises
  - les salaires et le pouvoir d'achat
  - la protection de l'emploi
  - le travail non déclaré
  - l'organisation du travail et du temps de travail
  - la santé et la sécurité au travail et l'accès à la formation
  - le dialogue social
- *Indicateurs sociaux de l'impact de la négociation collective des indépendants, des travailleurs des plateformes et d'autres travailleurs atypiques sur:*
  - la proportion d'indépendants travaillant à leur compte à titre principal et secondaire
  - les taux de rémunération des indépendants par secteur ou activité
  - la répartition du nombre de jours de travail par an des indépendants
  - le taux de risque de pauvreté des indépendants et des salariés
  - l'écart entre le revenu réel et le seuil de risque de pauvreté
  - la couverture juridique de la sécurité sociale pour les indépendants, en particulier la couverture de l'invalidité et de la vieillesse
  - la couverture effective par la sécurité sociale
  - autres indicateurs de la satisfaction au travail des indépendants
  - l'accès aux biens et aux services de base
  - les prix à la consommation
  - l'épargne

[8] https://ec.europa.eu/info/files/better-regulation-toolbox-29_fr
[9] https://ec.europa.eu/info/sites/default/files/file_import/better-regulation-toolbox-32_en_0.pdf
[10] Voir https://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:12016P/TXT&from=FR

- *Indicateurs de droits fondamentaux pour l'impact de la négociation collective des indépendants, des travailleurs des plateformes et d'autres travailleurs atypiques sur:*
  - le droit de négociation collective
  - la protection de l'emploi
  - les conditions de travail équitables
  - la protection sociale
  - le droit à l'information et à la consultation des travailleurs
  - le droit de concilier vie professionnelle et vie familiale

Ce scénario de base a ensuite été comparé aux différentes options stratégiques en termes de rapport coût-efficacité et de cohérence avec les autres règles et objectifs de l'UE. Les différentes options stratégiques examinées ont été définies dans l'évaluation de l'impact initiale publiée le 6 janvier 2021[11] et sont les suivantes:

- *Option 1: tous les travailleurs indépendants sans salariés fournissant leur propre travail par le biais de plateformes numériques de travail.*
- *Option 2: tous les travailleurs indépendants sans salariés fournissant leur propre travail par le biais de plateformes numériques de travail ou à des clients professionnels d'une certaine taille minimale.*
- *Option 3: tous les travailleurs indépendants sans salariés fournissant leur propre travail par le biais de plateformes numériques ou à des clients professionnels de toute taille, à l'exception des professions réglementées (et libérales).*
- *Option 4: tous les travailleurs indépendants sans salariés fournissant leur propre travail par le biais de plateformes numériques de travail ou à des clients professionnels de toute taille.*

Toutes les projections ont utilisé la période 2020-2030 comme point de référence pour l'analyse, afin de se conformer aux données disponibles sur les tendances de l'emploi et du marché du travail dans l'UE.

Conclusions principales

En ce qui concerne **le nombre d'indépendants potentiellement touché par cette initiative**, les chiffres varient en fonction de l'option choisie par la Commission européenne et des caractéristiques juridiques de chaque État membre de l'UE (comme décrit dans les groupes ci-dessus). Étant donné que la négociation collective n'a pas toujours lieu même si elle est autorisée et que certains peuvent être en mesure de négocier de meilleures conditions de travail à titre individuel, les conditions de travail ne doivent pas nécessairement s'améliorer pour l'ensemble d'entre-eux.

- Pour l'option 1, un total estimé à 20,5 millions de travailleurs des plateformes en 2030 (mesuré en équivalents temps plein) sera potentiellement affecté par cette initiative, et pour 6,8 millions d'entre eux, les conditions de travail devraient s'améliorer.
- Pour l'option 2, on estime qu'un total de 21,7 millions de travailleurs indépendants et de travailleurs des plateformes seront potentiellement concernés par cette initiative en 2030, avec une amélioration estimée des conditions de travail pour 7 millions d'entre eux.
- Pour l'option 3, on estime que 24,1 millions de travailleurs indépendants et de travailleurs des plateformes seront potentiellement concernés par cette initiative en 2030, avec une amélioration des conditions de travail pour 9,3 millions d'entre eux.

[11] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12483-Conventions-collectives-pour-les-travailleurs-independants-champ-d%E2%80%99application-des-regles-de-concurrence-de-l%E2%80%99UE_fr

- Pour l'option 4, on estime qu'un total de 35,1 millions de travailleurs indépendants et de travailleurs des plateformes seront potentiellement concernés par cette initiative en 2030, avec une amélioration des conditions de travail pour 10,9 millions d'entre eux.

En ce qui concerne **les changements attendus dans les taux de rémunération**, un très petit nombre de conventions collectives couvrant les travailleurs des plateformes ou les indépendants ne travaillant pas par le biais de plateformes ont été conclues dans l'UE, et un nombre encore plus réduit sont liées aux conditions de rémunération. À partir de l'analyse de cet ensemble limité de données et d'une étude de la littérature académique existante sur l'impact des conventions collectives, il a été extrapolé que les augmentations salariales supposées après la négociation collective pour tous les États membres et toutes les options se traduiraient par une augmentation de 15 % en moyenne et une augmentation de 40 % pour les travailleurs indépendants sans salariés présentant un risque de pauvreté.

En ce qui concerne les **impacts attendus sur les prix à la consommation**, il a été estimé que si les taux de rémunération de toutes les personnes potentiellement concernées augmentent de 15 % en moyenne, les prix à la consommation peuvent être attendus de 0,15 % à 0,24 % par rapport à la variante de l'effet dissuasif, et de 0,12 % à 0,18 % par rapport à la variante de l'application nationale (en tenant compte de la non-application nationale de l'interdiction de la négociation collective pour des groupes spécifiques de travailleurs des plateformes et d'indépendants, auquel cas les conditions de travail peuvent déjà s'améliorer ou se sont améliorées), en fonction de l'option choisie. On suppose qu'en moyenne 85 % de l'augmentation des coûts est répercutée sur les clients.

- Pour l'option 1, il a été estimé qu'il y aurait une augmentation moyenne de 0,15 % des prix à la consommation (variante de l'effet dissuasif) et de 0,12 % (variante de l'application nationale) à l'échelle de l'UE.
- Pour l'option 2, on a également estimé qu'il y aurait une augmentation moyenne de 0,15 % des prix à la consommation (variante de l'effet dissuasif) et de 0,13 % (variante de l'application nationale) à l'échelle de l'UE.
- Pour l'option 3, il a été estimé qu'il y aurait une augmentation moyenne de 0,20 % des prix à la consommation (variante de l'effet dissuasif) et de 0,15 % (variante de l'application nationale) à l'échelle de l'UE.
- Pour l'option 4, il a été estimé qu'il y aurait une augmentation moyenne de 0,24 % des prix à la consommation (variante de l'effet dissuasif) et de 0,18 % (variante de l'application nationale) à l'échelle de l'UE.

En ce qui concerne les **impacts attendus sur les taux de pauvreté**, aucune estimation de l'impact de l'option 1 n'a été possible en raison du manque de données fiables concernant le taux de pauvreté des travailleurs des plateformes. Ceci a également affecté l'analyse de l'impact de l'option 2 puisqu'elle couvre également le même groupe. En ce qui concerne l'option 3, on estime qu'elle réduira le taux de pauvreté des travailleurs indépendants (à l'exception de ceux exerçant une profession libérale) de 35 % à 24 % en 2030 et que 30 % des ménages de ce groupe sortiront de la pauvreté. Pour l'option 4, on estime que le taux de pauvreté de l'ensemble des indépendants passera de 30 % à 20 % en 2030 et que 32 % des ménages de ce groupe sortiront de la pauvreté.

En ce qui concerne **l'impact sur le budget de l'État**, l'augmentation de la rémunération des indépendants sans salariés travaillant pour des clients professionnels devrait avoir des effets non quantifiables sur les recettes fiscales, bien que l'on puisse noter que la valeur des augmentations futures des recettes fiscales résultant de l'augmentation des prix est généralement largement compensée par l'inflation, lorsqu'elle est exprimée en prix d'aujourd'hui. En raison du manque de données, la part des services fournis à l'État par les avocats pro deo et les urbanistes, par exemple, n'a pas pu être estimée. Étant donné que seuls 10 % des travailleurs indépendants sans salariés bénéficient de l'aide au revenu minimum (contre 30 % en moyenne), une augmentation de 40 % des taux de rémunération les plus bas ne réduirait que d'un milliard d'euros les dépenses publiques consacrées à l'aide au revenu des travailleurs indépendants sans salariés, et ce à l'échelle de l'UE. Les économies

attendues sur l'aide au revenu minimum des travailleurs des plateformes devraient être beaucoup plus élevées, mais n'ont pas pu être estimées en raison du manque de données.

En termes d'autres **impacts potentiels plus larges**, il a été constaté que, en raison des taux de rémunération plus élevés pour les indépendants résultant des options, on pourrait s'attendre à un changement dans les stratégies d'embauche des entreprises pour compenser cette évolution. En ce qui concerne le déplacement des salariés par les indépendants, aucun changement notable n'a été observé. Une **augmentation de la certitude d'un revenu annuel adéquat entraînerait probablement une réduction de l'épargne de précaution des indépendants, conduisant à une augmentation attendue des dépenses de consommation dans ce groupe et à une augmentation des revenus globaux pour les autres secteurs, comme décrit ci-dessus.**

Conclusions finales

Selon une projection à l'horizon 2030, environ 20,5 millions de personnes (en équivalents temps plein) devraient travailler par l'intermédiaire de plateformes et environ 14,6 millions d'indépendants sans salariés qui ne sont pas agriculteurs, propriétaires de magasins ou de restaurants, travailleraient via d'autres canaux. Environ la moitié des travailleurs des plateformes travaillent sur place, c'est-à-dire qu'ils doivent se trouver physiquement à certains endroits, et l'autre moitié travaille en ligne. Le travail sur place est généralement associé à un travail peu qualifié et peu rémunéré, et le travail en ligne à un travail plus qualifié. Environ 5,4 millions d'ETP[12] de travailleurs des plateformes, soit 26 %, devraient exercer des professions libérales en 2030. Les indépendants sans salariés travaillant par le biais d'autres canaux que les plateformes constituent également un groupe diversifié, avec 5,7 millions de personnes, soit 39 % des indépendants sans salariés, qui devraient exercer des professions libérales en 2030.

Si tous ces éléments sont potentiellement concernés par la suppression de l'effet dissuasif du droit européen de la concurrence sur la négociation collective, il est important de savoir qu'une négociation collective implique deux parties. Comme c'est le cas pour les employés, les employeurs ne sont pas toujours intéressés par une convention collective. En outre, environ la moitié des travailleurs indépendants sans salariés ont indiqué dans une enquête en ligne qu'ils pourraient négocier individuellement de meilleures conditions de travail, avec un pourcentage similaire pour les travailleurs indépendants sans salariés des plateformes.

Compte tenu de ces éléments, on estime que les conditions de travail s'amélioreraient pour environ 6,8 millions de travailleurs des plateformes après suppression de l'effet dissuasif du droit européen de la concurrence, et pour 4,1 millions de personnes supplémentaires si tous les indépendants sans salariés étaient autorisés à négocier collectivement (soit un total de 10,9 millions dans l'option 4). Plus de 90 % des indépendants sans salariés qui ne travaillent pas par l'intermédiaire de plateformes sont embauchés par des entreprises de moins de 10 salariés. Par conséquent, on estime que la suppression de l'effet dissuasif du droit européen de la concurrence sur les négociations collectives avec les grandes entreprises (option 2) n'entraînera une amélioration des conditions de travail que pour 200 000 travailleurs indépendants sans salariés ne travaillant pas via des plateformes. Si l'effet dissuasif est supprimé pour tous les travailleurs indépendants et les travailleurs des plateformes, à l'exception de ceux qui exercent une profession libérale, le nombre de personnes susceptibles de bénéficier d'une convention collective passe de 10,9 millions (option 4) à 9,3 millions (option 3).

On s'attend à ce que la négociation collective augmente les taux de rémunération de 15 % en moyenne pour ceux qui ne peuvent pas négocier individuellement de meilleures conditions de travail. Toutefois, pour les taux de rémunération très bas (équivalant à environ 7 euros de l'heure), on estime que les taux de rémunération augmenteraient de 40 %. Sur les 15 % d'augmentation des taux de rémunération attendus, environ 85 % devraient être répercutés sur les consommateurs. Étant donné que le nombre maximum de 10,9 millions d'indépendants et de travailleurs des plateformes censés être couverts par une convention collective ne

[12] Équivalents temps plein, qui pondèrent chaque personne par le nombre d'heures par semaine qu'elle travaille en moyenne par rapport à un temps plein (environ 40 heures par semaine).

représente qu'une infime partie de la main-d'œuvre totale, l'augmentation des prix qui en résulterait devrait être limitée entre 0,15 % à 0,24 % selon l'option stratégique, par rapport à la variante de l'effet dissuasif.

Parmi les travailleurs indépendants sans salariés qui ne travaillent pas par l'intermédiaire de plateformes, environ un tiers est exposé au risque de pauvreté. Une augmentation de salaire de 40 % permettrait à un tiers d'entre eux de sortir de la pauvreté. Outre les indépendants, trois autres membres du ménage en moyenne sortiraient de la pauvreté en même temps. Cette augmentation salariale accroît en outre la certitude d'un revenu annuel adéquat et devrait réduire la nécessité d'une épargne de précaution en cas de récession économique. Bien que cela stabilise théoriquement l'économie, les éventuels effets sont probablement faibles en raison du nombre relativement limité de personnes concernées.

Zusammenfassung

Ziele, Vorhaben und Umfang der Studie

Dieser Abschlussbericht wurde von Ecorys als Antwort auf die Dienstleistungsanforderung mit folgendem Titel erstellt: „Studie zur Unterstützung der Folgenabschätzung in Bezug auf eine mögliche EU-Initiative zur Anwendung der Wettbewerbsvorschriften auf Kollektivverhandlungen der Selbstständigen (COMP/2020/008)“, die im Zusammenhang mit dem Rahmenvertrag: „Dienstleistungen im Zusammenhang mit der Umsetzung von Leitlinien für bessere Rechtsetzung“ (VT/2016/027) veröffentlicht wurde.

Dieser Bericht ist Teil der Bemühungen der Europäischen Kommission, die möglicherweise gefährdeten Arbeitsbedingungen von Selbstständigen, einschließlich der wachsenden Zahl von Plattformbeschäftigten auf dem EU-Arbeitsmarkt, zu verbessern. Die in dieser Studie gesammelten Informationen sollen insbesondere dazu beitragen, die Folgenabschätzung der Kommission im Zusammenhang mit einer möglichen Initiative der Kommission fundiert zu unterstützen. Mit dieser Initiative soll sichergestellt werden, dass das EU-Wettbewerbsrecht einer Verbesserung der Arbeitsbedingungen durch Tarifverträge für schutzbedürftige Selbstständige nicht im Wege steht, während gleichzeitig Rechtssicherheit gewährleistet wird und die Verbraucherinnen und Verbraucher weiterhin von einem wettbewerbsfähigen Markt profitieren. Die Initiative wurde am 6. Januar 2021 ins Leben gerufen.[13]

Dieser Bericht umfasst Daten, die zwischen Januar 2021 und August 2021 in allen 27 EU-Mitgliedstaaten und vier Nicht-EU-Ländern (USA, Kanada, Australien und Südkorea) erfasst wurden. Zu den abgefragten Datensätzen gehören:

- Die EU-Arbeitskräfteerhebung in Bezug auf Selbstständigkeit und atypische Beschäftigungsformen;
- Mikrodaten von Eurostat;
- die Europäische Erhebung über die Arbeitsbedingungen in Unternehmen;
- die COLLEEM-Erhebungen in Bezug auf Plattformbeschäftigte.

Das Team von Ecorys wurde während des Auftrags auch von dem folgenden Gremium hochrangiger Fachleute unterstützt:

- **Professor Anthony Kerr,** Professor für Recht, UCD Sutherland School of Law, Dublin;
- **Professor Frans Pennings**, Professor für Recht, Wirtschaft und Governance, Universität Utrecht;
- **Professor Massino Pallini**, Professor für Arbeitsrecht, Universität Mailand;
- **Professor Roberto Pedersini**, Professor für Soziologie der Wirtschaftsprozesse und der Arbeit, Universität Mailand;
- **Professor Francesco Rossi dal Pozzo,** Professor für EU-Recht, Wettbewerbsrecht der Europäischen Union (einschließlich staatlicher Beihilfen) sowie europäisches Verkehrsrecht, Universität Mailand.
- **Nigel Meager,** unabhängiger Arbeitsökonom.

[13] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12483-Tarifvertrage-fur-Selbststandige-Anwendungsbereich-der-EU-Wettbewerbsvorschriften_de

Übersicht über die Methode

Zur Erstellung dieses Berichts wurden die folgenden Datenerhebungen durchgeführt:

- Sekundärforschung und Literaturrecherche auf EU-Ebene, die sich auch auf einige ausgewählte Nicht-EU-Länder erstreckte und 110 verschiedene akademische Arbeiten, Studien, Berichte und Veröffentlichungen auf Ebene der EU und auf internationaler Ebene umfasste;
- eine Bestandsaufnahme der nationalen Systeme und Maßnahmen in Bezug auf Selbständige, Kollektivverhandlungssrechte, Arbeitsrecht und Wettbewerbsrecht in allen EU-Mitgliedstaaten;
- Durchführung von 14 Interviews mit abfassenden EU-Dienststellen und Multiplikatoren sowie von 98 Interviews mit verschiedenen nationalen Interessengruppen in allen 27 EU-Mitgliedstaaten;
- Quantitative Analyse einer Online-Umfrage unter Selbstständigen, die in Zusammenarbeit mit dem Umfrageinstitut Dynata durchgeführt wurde. Dabei wurden 3 819 Antworten von Selbstständigen in Deutschland, Spanien, Frankreich, Italien, den Niederlanden, Österreich, Polen und Schweden erfasst;
- Quantitative und qualitative Analyse der Antworten auf die öffentliche Befragung zum Gesetz über digitale Dienste, mit Antworten von 1 280 Einzelpersonen und 10 Organisationen aus allen EU-Mitgliedstaaten;
- Quantitative und qualitative Analyse der Antworten auf die öffentliche Befragung zur anfänglichen Folgenabschätzung zu Tarifverträgen für Selbstständige, auf die 309 Antworten aus der gesamten EU eingingen;
- Quantitative und qualitative Analyse der Antworten auf die offene öffentliche Befragung zu einer Studie zur Unterstützung der Folgenabschätzung in Bezug auf eine mögliche EU-Initiative zur Anwendung der Wettbewerbsvorschriften auf Kollektivverhandlungen der Selbstständigen, auf die 267 Antworten aus der gesamten EU eingingen;
- Quantitative Analyse des Datensatzes der EU-Arbeitskräfteerhebung in Bezug auf Selbstständigkeit und atypische Beschäftigungsformen, der Mikrodaten von Eurostat, der Europäischen Erhebung über die Arbeitsbedingungen in Unternehmen und der COLLEEM-Erhebungen in Bezug auf Plattformarbeitskräfte;
- Die Erstellung von Clustern von EU-Mitgliedstaaten und eines Basisszenarios für die Analyse, basierend auf den erhobenen Daten und dem Rat der Gruppe hochrangiger Fachleute;
- Ein Online-Expertenworkshop mit sechs externen Fachleuten sowie Vertreterinnen und Vertretern der Europäischen Kommission zur Veröffentlichung und Diskussion der wichtigsten Schlussfolgerungen der Analyse;

Ecorys arbeitete während der gesamten Studie eng mit dem Team der GD Wettbewerb zusammen und erhielt während der verschiedenen Phasen des Berichts Rückmeldungen.

Erkenntnisse und Schlussfolgerungen der Studie

Ausgangsszenario

Die Analyse der erhobenen Daten ergab, dass die Gesamtzahl der Selbstständigen insgesamt abnimmt. Laut dem Datensatz der EU-Arbeitskräfteerhebung sank die Zahl der auf eigene Rechnung arbeitenden Selbstständigen, das heißt der Solo-Selbstständigen, in den 27 EU-Ländern von 19,9 Millionen im Jahr 2010 auf 19,5 Millionen im Jahr 2020. Dieser Rückgang wurde hauptsächlich durch einen Rückgang der Zahl der Beschäftigten in der Landwirtschaft verursacht – die Zahl der Solo-Selbstständigen in der Industrie, im Dienstleistungssektor und im Verkauf stieg in diesem Zeitraum an.

Italien ist der EU-Mitgliedstaat mit der größten Anzahl von Solo-Selbstständigen, mit über 3,4 Millionen Erwerbstätigen im Jahr 2020, trotz eines Rückgangs in den vorangegangenen zehn Jahren. Auch in

Deutschland ging die Zahl der auf eigene Rechnung arbeitenden Selbstständigen zurück, während sie in Spanien und Frankreich anstieg. In Polen blieb diese Zahl mit etwa 2,3 Millionen Erwerbstätigen relativ stabil.

Der Anteil der männlichen und weiblichen Selbstständigen in der EU blieb im Zeitraum zwischen 2010 und 2020 relativ stabil (34-35 % Frauen, 65-66 % Männer), wobei Frauen in den Bereichen Büroarbeiten, Dienstleistungen und Verkauf dominieren und Männer in den Bereichen Handwerk und verwandte Berufe, Anlagen- und Maschinenbedienung und Montage sowie als Hilfsarbeitskräfte tätig sind.

Die Daten zeigen ferner, dass neue Formen der Selbständigkeit, wie etwa Plattformbeschäftigte und freiberufliche Selbständige ohne Angestellte, auf dem EU-Arbeitsmarkt erheblich an Bedeutung gewinnen. Laut den Studien COLLEEM I und II aus dem Jahr 2020 hat sich die Zahl der marginalen Plattformbeschäftigten (die jeden Monat arbeiten, aber sowohl weniger als 10 Stunden pro Woche arbeiten als auch weniger als 25 % des persönlichen Einkommens erzielen) zwischen 2017 und 2018 von 1,6 % auf 3,1 % aller Erwachsenen zwischen 16 und 74 Jahren in 14 Mitgliedstaaten fast verdoppelt. Die Zahl der gelegentlichen Plattformbeschäftigten (die nicht jeden Monat über Plattformen arbeiten) stieg ebenfalls an, von 1,9 % auf 2,4 %. Darüber hinaus stieg die Zahl der Personen, die Plattformarbeit als Nebenbeschäftigung ausüben, in 14 EU-Mitgliedstaaten von 3,6 % auf 4,1 % aller Erwachsenen zwischen 16 und 74 Jahren. Das Phänomen der hauptberuflichen Tätigkeit über Plattformen ist in der EU nach wie vor beschränkt.

Zwar wächst das Wissen über diese neuen Arbeitsformen, aber es ist immer noch recht begrenzt, und es ist schwierig, solche fragmentierten und diversifizierten Phänomene statistisch zu erfassen. Erschwerend kommt hinzu, dass die Mitgliedstaaten nicht dieselbe Definition von Selbstständigkeit verwenden, die von Land zu Land nach unterschiedlichen Konzepten (Unabhängigkeit, Selbstverwaltung und so weiter) variiert. Dies schafft ein schwieriges rechtliches Umfeld für die Umsetzung einer EU-weiten Politik. Dies wurde auch durch Gespräche mit Fachleuten auf EU-Ebene bestätigt, die einräumten, dass die ungenaue Definition von Selbstständigkeit und die Herausforderungen im Zusammenhang mit den verschiedenen Arten von Selbstständigen sowie der von diesen ausgeübten Tätigkeiten zwar kein neues Problem darstellen, sich jedoch auf die Arbeitsbedingungen von Selbstständigen und das ihnen gewährte Maß an Schutz auswirken. Was das Thema Scheinselbstständigkeit betrifft, so haben die verfügbaren Daten gezeigt, dass dieses Phänomen in vielen Mitgliedstaaten weit verbreitet ist, dass es aber auch nahezu unmöglich ist, umfassende Informationen über Scheinselbstständigkeit zu erhalten, da es in vielen EU-Mitgliedstaaten an Daten und klaren Definitionen von Scheinselbstständigkeit mangelt.

Hinsichtlich der Wechselwirkungen zwischen dem Wettbewerbsrecht und den Rechten der Selbstständigen ergab die Analyse, dass allgemein Einigkeit darüber besteht, dass das EU-Wettbewerbsrecht die Rechte und Bedürfnisse der Selbstständigen besser berücksichtigen und deren Recht auf Kollektivverhandlungen gewährleisten sollte. Alle Befragten erkannten die Herausforderungen an, die sich aus den neuen und sich entwickelnden Merkmalen der Selbstständigkeit ergeben, sowie die Unzulänglichkeit der bestehenden Vorschriften für diese Beschäftigten, insbesondere für die Plattformbeschäftigten. Neue Technologien verändern die Vertragsbeziehungen, und die Befragten betonten, dass das Arbeits- und Wettbewerbsrecht nicht zeitgemäß und flexibel genug ist, um diese neuen Vertragsformen zu berücksichtigen.

Die erhobenen Daten machten außerdem deutlich, dass die Rechte von Solo-Selbstständigen in der gesamten EU besser durchgesetzt werden müssen. Die Umfragedaten verdeutlichten, dass der Grad der Zufriedenheit mit bestimmten Aspekten der Arbeitsbedingungen sehr niedrig ist, insbesondere mit dem Kranken- und Rentenversicherungsschutz, dem Entgelt und dem Einkommen sowie den Urlaubsregelungen. Eine beträchtliche Anzahl der Befragten fühlte sich nicht in der Lage, ihre Arbeitsbedingungen zu ändern, oder wusste nicht, ob sie dazu in der Lage waren, was zumeist auf den starken Wettbewerb in ihrem Sektor, aber auch auf die fehlende Mitgliedschaft in einer Gewerkschaft zurückzuführen war. Zwar gaben einige der Befragten an, dass sie ständig oder gelegentlich unter einen Tarifvertrag über Arbeitsbedingungen fallen, doch bestätigten andere erhobene Daten, dass dies unter Solo-Selbstständigen in der EU nicht üblich ist und dass der gewerkschaftliche Organisationsgrad bei Selbstständigen, insbesondere bei Plattformbeschäftigten, noch nicht sehr ausgeprägt ist.

Es ist anzumerken, dass eine relativ große Zahl der Befragten der Meinung war, dass kollektive Maßnahmen – wie der Beitritt zu einer Gewerkschaft, Streiks oder Tarifverträge – eine wirksame Möglichkeit bieten, um ihre

Verhandlungsposition gegenüber Kunden zu verbessern. Die Mehrheit der Befragten stand auch der Idee einer Gesetzesvorlage zum Ausschluss von Tarifverträgen, welche die Arbeitsbedingungen von Selbstständigen regeln, vom Kartellverbot positiv gegenüber. Gesetzliche Initiativen für einen Mindestlohn, die soziale Absicherung und die Verbesserung der Arbeitsbedingungen sollten sich ihrer Meinung nach einer EU-Initiative für Kollektivverhandlungen anschließen. Jedoch herrschte eine gewisse Unsicherheit in Bezug auf diese Initiative (und den von der EU zu verfolgenden Ansatz). Die Umfrage ergab weiterhin, dass spezifische gesetzliche Vorschriften in Betracht gezogen werden könnten, um etwaige negative soziale und wirtschaftliche Auswirkungen der Kontrollfunktion großer Internetplattformen über das gesamte Ökosystem der Plattformen zu unterbinden, und dass diese eine Rolle dabei spielen würden, sicherzustellen, dass Einzelpersonen, die Dienstleistungen über Internetplattformen anbieten, sich zu kollektiven Zwecken organisieren können.

Insgesamt ergab die Untersuchung, dass die Befragten davon ausgingen, dass die Initiative positive oder sehr positive soziale, wirtschaftliche und ökologische Auswirkungen für alle Kategorien von Selbstständigen haben würde. Was die sozialen Auswirkungen betrifft, so wurden für Solo-Selbstständige bessere Arbeitsbedingungen sowie eine bessere soziale Absicherung erwartet. In Bezug auf die wirtschaftlichen Auswirkungen wird erwartet, dass diese Initiative das Vertrauen der Verbraucherinnen und Verbraucher in die Plattformdienstleister stärkt und den Ruf der Plattformdienstleister allgemein verbessert. Faire und menschenwürdige Arbeitsbedingungen sowie ein verbessertes Recht auf Kollektivverhandlungen sind die wichtigsten positiven Auswirkungen auf die grundlegenden Rechte, die von dieser Initiative erwartet wurden. Im Rahmen der Studie wurden keine größeren Umweltauswirkungen festgestellt.

Im Hinblick auf andere Nicht-EU-Länder, die für diesen Bericht befragt wurden, belegten die Untersuchungen, dass diese mit ähnlichen Problemen bei der Regulierung neuer Formen der Selbständigkeit konfrontiert sind und dass ein Überblick über einige der Erfahrungen in den USA, Kanada, Australien und Südkorea für die EU-Maßnahmen in diesem Bereich von Bedeutung wäre. Diese Länder beschäftigen sich mit denselben Fragen, die oben hervorgehoben wurden (beispielsweise die rechtliche Definition von Selbständigkeit, die Kohärenz zwischen Wettbewerbsrecht und Arbeitsrechten). Kanada und Australien erlauben Kollektivverhandlungen für Selbständige mit im Wesentlichen recht einfachen und realistischen Ansätzen, während die USA und Südkorea keine Kollektivverhandlungen zulassen, sich aber für eine bessere Definition und Regulierung selbständiger Arbeit einsetzen.

Auf der Grundlage der Analyse der gesammelten Daten wurden fünf EU-Ländercluster gebildet, um die Folgenabschätzung zu unterstützen. Die fünf Cluster sind:

- *Cluster 1: Rechtssystem, in dem alle Solo-Selbständigen kollektiv Tarifverträge aushandeln dürfen.*
  - Polen
- *Cluster 2: Rechtssysteme, in denen alle Selbständigen von kollektiven Kollektivverhandlungen ausgenommen sind*
  - Belgien, Bulgarien, Dänemark, Estland, Finnland, Kroatien, Lettland, Litauen, Luxemburg, Malta, Rumänien, Slowakei, Tschechien, Ungarn und Zypern
- *Cluster 3: Rechtssysteme, in denen (manche) Selbständige auf der Grundlage eines Kriteriums wirtschaftlicher Abhängigkeit Kollektivverhandlungen nach dem Arbeitsrecht führen dürfen*
  - Deutschland, Portugal, Schweden, Slowenien, Spanien
- *Cluster 4: Rechtssysteme, in denen (manche) Selbständige auf der Grundlage der spezifischen Bereiche, in denen sie arbeiten, und/oder auf der Grundlage einer bestimmten Kategorie, der sie angehören, arbeitsrechtlich zu Kollektivverhandlungen befugt sind*
  - Frankreich, Griechenland, Italien, Österreich, Portugal, Spanien
- *Cluster 5: Rechtssysteme, in denen entweder (i) das nationale Wettbewerbsrecht eine Ausnahme von der Anwendung des Kartellverbots vorsieht, sodass (manche) Selbstständige Kollektivverhandlungen führen können, oder (ii) die nationalen Wettbewerbsbehörden Richtlinien erlassen haben, nach denen*

sie das Kartellverbot gegen (manche) Selbstständige unter bestimmten Bedingungen nicht durchsetzen werden

- Irland, Niederlande

Folgenabschätzung

Ausgehend von der oben beschriebenen Ausgangssituation wurde eine Folgenabschätzung für die verschiedenen zu bewertenden politischen Möglichkeiten entwickelt, wobei die Indikatoren auf der Grundlage der in Instrument 29[14] und Instrument 32[15] der Leitlinien für eine bessere Rechtsetzung ermittelten wahrscheinlichen Auswirkungen entwickelt wurden. Die Charta der Grundrechte[16] wurde herangezogen, um Indikatoren für die wahrscheinlichen Auswirkungen auf die Grundrechte zu erarbeiten. Zu diesem Zweck wurden die folgenden Indikatoren festgelegt:

- *Sozioökonomische Indikatoren der Auswirkungen von Kollektivverhandlungen für Selbstständige, Plattformbeschäftigte und andere atypisch Erwerbstätige auf:*
  - Beschäftigungsgrad
  - Beschäftigung insgesamt
  - Beschäftigung insgesamt in großen und kleinen Unternehmen
  - Arbeitskräfteangebot und erforderliche Qualifikationen
  - Löhne und Kaufkraft
  - Beschäftigungsschutz
  - Nicht angemeldete Erwerbstätigkeit
  - Organisation der Arbeit und der Arbeitszeit
  - Gesundheit und Sicherheit am Arbeitsplatz sowie Zugang zu Weiterbildung
  - Sozialer Dialog
- *Soziale Indikatoren für die Auswirkungen von Kollektivverhandlungen für Selbstständige, Plattformbeschäftigte und andere atypisch Erwerbstätige auf:*
  - Anteil der Selbstständigen, die haupt- und nebenberuflich selbstständig sind
  - Einkommensquoten der Selbstständigen nach Sektor/Tätigkeit
  - Verteilung der Anzahl von Arbeitstagen pro Jahr bei Selbstständigen
  - Quote der Armutsgefährdung von Selbstständigen und Beschäftigten
  - Diskrepanz zwischen dem tatsächlichen Einkommen und der Schwelle zur Armutsgefährdung
  - Gesetzlicher Sozialversicherungsschutz für Selbständige, insbesondere für die Bereiche Erwerbsunfähigkeit und Alter
  - Tatsächlicher Versicherungsschutz durch die Sozialversicherung
  - Andere Indikatoren für die Arbeitszufriedenheit von Selbstständigen
  - Zugang zu grundlegenden Gütern und Dienstleistungen
  - Verbraucherpreise
  - Ersparnisse

[14] https://ec.europa.eu/info/sites/default/files/file_import/better-regulation-toolbox-32_en_0.pdf
[15] https://ec.europa.eu/info/files/better-regulation-toolbox-29_de
[16] Siehe https://eur-lex.europa.eu/legal-content/DE/TXT/PDF/?uri=CELEX:12016P/TXT&from=DE

- *Indikatoren der Grundrechte für die Auswirkungen von Kollektivverhandlungen für Selbstständige, Plattformbeschäftigte und andere atypisch Erwerbstätige auf:*
  - Recht auf Kollektivverhandlungen und Kollektivmaßnahmen
  - Schutz bei ungerechtfertigter Entlassung
  - Gerechte und angemessene Arbeitsbedingungen
  - Soziale Sicherheit und soziale Unterstützung
  - Recht auf Unterrichtung und Anhörung der Arbeitnehmerinnen und Arbeitnehmer im Unternehmen
  - Achtung des Privat- und Familienlebens

Dieses Ausgangsszenario wurde dann mit den verschiedenen Maßnahmenoptionen hinsichtlich Kostenwirksamkeit und Kohärenz mit anderen EU-Vorschriften und -Zielen verglichen. Die verschiedenen zu prüfenden Optionen wurden in der am 6. Januar 2021 veröffentlichten ersten Folgenabschätzung[17] wie folgt definiert:

- *Option 1: alle Solo-Selbstständigen, die ihre eigene Arbeitskraft über digitale Plattformen anbieten.*
- *Option 2: alle Solo-Selbstständigen, die ihre eigene Arbeitskraft über digitale Plattformen oder für gewerbliche Kunden ab einer bestimmten Mindestgröße anbieten.*
- *Option 3: Alle Solo-Selbstständigen, die ihre eigene Arbeitskraft über digitale Plattformen oder für gewerbliche Kunden jeder Größe anbieten, mit Ausnahme der gesetzlich geregelten (und freien) Berufe.*
- *Option 4: Alle Solo-Selbstständigen, die ihre eigene Arbeitskraft über digitale Plattformen oder für gewerbliche Kunden beliebiger Größe anbieten.*

Bei allen Projektionen wurde der Zeitraum 2020-2030 als Bezugspunkt für die Analyse verwendet, um den verfügbaren Daten über die Beschäftigungs- und Arbeitsmarkttrends in der EU zu entsprechen.

Wesentliche Erkenntnisse

Die Zahl der potenziell von dieser Initiative betroffenen Selbstständigen hängt von der von der Europäischen Kommission gewählten Option und den rechtlichen Besonderheiten der einzelnen EU-Mitgliedstaaten ab (wie in den obigen Clustern beschrieben). Da Kollektivverhandlungen nicht immer stattfinden, wenn sie zulässig sind, und da einige von ihnen möglicherweise in der Lage sind, bessere Arbeitsbedingungen individuell auszuhandeln, verbessern sich die Arbeitsbedingungen nicht zwangsläufig für alle von ihnen.

- Bei Option 1 sind im Jahr 2030 schätzungsweise insgesamt 20,5 Millionen Plattformbeschäftigte (gemessen in Vollzeitäquivalenten) potenziell von dieser Initiative betroffen, und für 6,8 Millionen von ihnen werden sich die Arbeitsbedingungen voraussichtlich verbessern.
- Bei Option 2 sind im Jahr 2030 schätzungsweise insgesamt 21,7 Millionen Selbstständige und Plattformbeschäftigte von dieser Initiative betroffen, wobei sich die Arbeitsbedingungen für 7,0 Millionen von ihnen verbessern dürften.
- Bei Option 3 sind im Jahr 2030 schätzungsweise insgesamt 24,1 Millionen Selbstständige und Plattformbeschäftigte von dieser Initiative betroffen, wobei sich die Arbeitsbedingungen für 9,3 Millionen von ihnen verbessern dürften.
- Bei Option 4 sind im Jahr 2030 schätzungsweise insgesamt 35,1 Millionen Selbstständige und Plattformbeschäftigte von dieser Initiative betroffen, wobei sich die Arbeitsbedingungen für 10,9 Millionen von ihnen verbessern dürften.

[17] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12483-Tarifvertrage-fur-Selbststandige-Anwendungsbereich-der-EU-Wettbewerbsvorschriften_de

Was **die erwarteten Änderungen der Entgeltsätze** betrifft, so wurden in der EU nur sehr wenige Tarifverträge abgeschlossen, die sich auf Plattformbeschäftigte oder nicht über Plattformen tätige Selbstständige beziehen, und noch weniger beziehen sich auf die Entgeltbedingungen. Aus der Analyse dieses begrenzten Datensatzes und der Sichtung der vorhandenen Fachliteratur über die Auswirkungen von Tarifverträgen wurde geschlussfolgert, dass die angenommenen Entgelterhöhungen nach Kollektivverhandlungen für alle Mitgliedstaaten und alle Maßnahmenoptionen zu einer durchschnittlichen Erhöhung von 15 % und für armutsgefährdete Solo-Selbständige zu einer Erhöhung von 40 % führen würden.

Was die **zu erwartenden Auswirkungen auf die Verbraucherpreise** anbelangt, so wurde geschätzt, dass bei einem durchschnittlichen Anstieg der Entgeltsätze aller potenziell Betroffenen um +15 % die Verbraucherpreise im Vergleich zur Variante mit Abschreckungseffekt um 0,15 % bis 0,24 % und im Vergleich zur Variante mit nationaler Durchsetzung um 0,12 % bis 0,18 % steigen dürften (unter Berücksichtigung der nationalen Nichtdurchsetzung des Kollektivverhandlungensverbots für bestimmte Gruppen von Plattformbeschäftigten und Selbstständigen, bei denen sich die Arbeitsbedingungen bereits verbessert haben könnten), je nach der gewählten Option. Es wird angenommen, dass im Durchschnitt 85 % des Kostenanstiegs an die Verbraucherschaft weitergegeben werden.

- Für Option 1 wurde ein durchschnittlicher Anstieg der Verbraucherpreise um 0,15 % (Variante mit Abschreckungseffekt) und 0,12 % (Variante mit nationaler Durchsetzung) auf EU-Ebene geschätzt.
- Für Option 2 wurde ebenfalls ein durchschnittlicher Anstieg der Verbraucherpreise um 0,15 % (Variante mit Abschreckungseffekt) und um 0,13 % (Variante mit nationaler Durchsetzung) auf EU-Ebene veranschlagt.
- Für Option 3 wurde ein durchschnittlicher Anstieg der Verbraucherpreise um 0,20 % (Variante mit Abschreckungseffekt) und 0,15 % (Variante mit nationaler Durchsetzung) auf EU-Ebene geschätzt.
- Für Option 4 wurde ein durchschnittlicher Anstieg der Verbraucherpreise um 0,24 % (Variante mit Abschreckungseffekt) und 0,18 % (Variante mit nationaler Durchsetzung) auf EU-Ebene veranschlagt.

Was die **erwarteten Auswirkungen auf die Armutsquoten** betrifft, so war eine Schätzung der Auswirkungen von Option 1 nicht möglich, da keine zuverlässigen Daten über die Armutsquote von Plattformbeschäftigten vorliegen. Dies wirkte sich in ähnlicher Weise auf die Analyse der Auswirkungen von Option 2 aus, da diese sich ebenfalls auf dieselbe Gruppe bezieht. Bei Option 3 wird angenommen, dass die Armutsquote unter Selbstständigen (ohne Freiberufler) von 35 % auf 24 % im Jahr 2030 sinken und 30 % der Haushalte in dieser Gruppe aus der Armut herausgeführt werden würden. Bei Option 4 wird angenommen, dass die Armutsquote aller Selbständigen von 30 % auf 20 % im Jahr 2030 sinken und 32 % der Haushalte in dieser Gruppe aus der Armut herausgeführt werden würden.

Im Hinblick auf die **Auswirkungen auf den Staatshaushalt** wird angenommen, dass das höhere Arbeitsentgelt von Solo-Selbstständigen, die für gewerbliche Kunden arbeiten, nicht bezifferbare Auswirkungen auf die Steuereinnahmen haben wird, wobei allerdings anzumerken ist, dass der Wert dieser zukünftigen Erhöhungen der Steuereinnahmen infolge von Preissteigerungen im Allgemeinen durch die Inflation weitgehend aufgehoben wird, wenn diese in heutigen Preisen ausgedrückt wird. Aufgrund unzureichender Daten konnte der Anteil der für den Staat erbrachten Dienstleistungen, beispielsweise durch selbstständige Rechtsvertretungen und in der Stadtplanung Tätige, nicht geschätzt werden. Da nur 10 % der Solo-Selbständigen die Mindestsicherung in Anspruch nehmen (im Vergleich zu 30 % im Durchschnitt), würde eine Erhöhung der Mindestlöhne um 40 % die staatlichen Ausgaben für die Einkommensbeihilfe für Solo-Selbständige auf EU-Ebene nur um 1 Milliarde Euro verringern. Die erwarteten Einsparungen bei der Mindesteinkommensbeihilfe für Plattformbeschäftigte dürften wesentlich höher sein, konnten aber aufgrund unzureichender Daten nicht geschätzt werden.

Hinsichtlich anderer **potentiell weitreichender Auswirkungen** wurde festgestellt, dass aufgrund höherer Entgeltsätze für Selbstständige, die sich aus den Optionen für Maßnahmen ergeben, mit einer Veränderung der Einstellungspraxis von Unternehmen gerechnet werden könnte, um diese Änderung auszugleichen. In Bezug auf die Verdrängung von Beschäftigten durch Selbstständige waren keine nennenswerten Veränderungen zu beobachten. Eine umfassendere Sicherstellung eines angemessenen Jahreseinkommens würde wahrscheinlich zu einer Verringerung des Sparverhaltens von Selbstständigen führen, sodass ein

Anstieg der Verbrauchsausgaben in dieser Gruppe sowie – wie oben beschrieben – höhere Gesamteinnahmen für andere Sektoren zu erwarten sind.

Fazit der Studie

Es wird prognostiziert, dass bis zum Jahr 2030 etwa 20,5 Millionen Menschen (in Vollzeitäquivalenten) über Plattformen beschäftigt sind und etwa 14,6 Millionen Solo-Selbstständige, die keine Landwirtinnen und Landwirte, Laden- oder Restaurantbesitzende sind, über andere Kanäle tätig werden. Etwa die Hälfte der Plattformbeschäftigten arbeitet vor Ort, das heißt, die Plattformbeschäftigten müssen sich an einem bestimmten Ort aufhalten, während die andere Hälfte online arbeitet. Die Tätigkeit vor Ort wird in der Regel mit niedrig qualifizierter und gering bezahlter Arbeit in Verbindung gebracht, die Online-Tätigkeit hingegen mit höher qualifizierter Arbeit. Für das Jahr 2030 wird weiter erwartet, dass etwa 5,4 Millionen VZÄ[18] oder 26 % der Plattformbeschäftigten in freien Berufen tätig sein werden. Die Solo-Selbständigen, die über andere Kanäle als Plattformen arbeiten, sind ebenfalls eine vielfältige Gruppe: Im Jahr 2030 werden voraussichtlich 5,7 Millionen Menschen oder 39 % der Solo-Selbständigen in freien Berufen tätig sein.

Während alle diese Bereiche potenziell durch die Aufhebung des Abschreckungseffekts des EU-Wettbewerbsrechts auf Kollektivverhandlungen betroffen sind, darf nicht vergessen werden, dass zu Kollektivverhandlungen stets zwei Seiten gehören. Wie bei den Beschäftigten sind auch die Betriebe nicht immer an einem Tarifvertrag interessiert. Darüber hinaus gab etwa die Hälfte der Solo-Selbstständigen in einer Online-Umfrage an, dass sie bessere Arbeitsbedingungen individuell aushandeln könnten; ein ähnlicher Prozentsatz gilt für Solo-Selbstständige, die auf einer Plattform arbeiten.

In Anbetracht dessen wird geschätzt, dass sich die Arbeitsbedingungen für etwa 6,8 Millionen Plattformbeschäftigte verbessern würden, wenn der Abschreckungseffekt des EU-Wettbewerbsrechts beseitigt würde, und für weitere 4,1 Millionen Menschen, wenn alle Solo-Selbstständigen die Möglichkeit zu Kollektivverhandlungen erhalten würden (insgesamt 10,9 Millionen bei Option 4). Über 90 % der Solo-Selbständigen, die nicht über Plattformen tätig sind, werden von Unternehmen mit weniger als 10 Beschäftigten beauftragt. Daher dürfte allein die Beseitigung des Abschreckungseffekts des EU-Wettbewerbsrechts für Kollektivverhandlungen mit größeren Unternehmen (Option 2) zu einer Verbesserung der Arbeitsbedingungen für nur 200 000 Solo-Selbständige führen, die nicht über Plattformen arbeiten. Wird der Abschreckungseffekt für alle Selbstständigen und Plattformbeschäftigten mit Ausnahme derjenigen in freien Berufen aufgehoben, so verringert sich die Anzahl der Personen, die voraussichtlich von einem Tarifvertrag profitieren würden, von 10,9 Millionen (Option 4) auf 9,3 Millionen (Option 3).

Es wird geschätzt, dass Kollektivverhandlungen die Entgeltsätze für diejenigen, die individuell keine besseren Arbeitsbedingungen aushandeln können, im Durchschnitt um 15 % erhöhen. Für sehr niedrige Entgelte (die etwa sieben EUR pro Stunde entsprechen) werden die Entgelte jedoch um schätzungsweise 40 % steigen. Von dem erwarteten Anstieg der Entgeltsätze um 15 % werden voraussichtlich etwa 85 % der Kosten an die Verbraucherinnen und Verbraucher weitergegeben. Da die maximale Zahl von 10,9 Millionen Selbständigen und Plattformbeschäftigten, die unter einen Tarifvertrag fielen, nur einen kleinen Teil der Gesamtbeschäftigten ausmacht, dürfte der daraus resultierende Preisanstieg im Vergleich zur Variante mit Abschreckungseffekt je nach Option auf 0,15 % bis 0,24 % begrenzt sein.

Von den Solo-Selbstständigen, die nicht über Plattformen arbeiten, ist etwa ein Drittel armutsgefährdet. Eine Erhöhung des Entgelts um 40 % würde ein Drittel von ihnen aus der Armut herausführen. Neben den Selbstständigen würden im Durchschnitt drei weitere Haushaltsmitglieder gleichzeitig aus der Armut herausgeführt werden. Diese Erhöhung des Entgelts erhöht außerdem die Sicherstellung eines angemessenen Jahreseinkommens und dürfte die Notwendigkeit des Vorsorgesparens in Phasen des wirtschaftlichen

[18] Vollzeitäquivalente, die jede Person mit der durchschnittlichen Wochenarbeitszeit im Vergleich zur Vollzeitarbeitszeit (ca. 40 Stunden pro Woche) gewichtet.

Abschwungs verringern. Obwohl dies die Wirtschaft theoretisch stabiler machen würde, ist der Effekt aufgrund der relativ niedrigen Zahl der betroffenen Personen wahrscheinlich gering.

1. Introduction

The Ecorys Consortium is pleased to submit this Final report as the last key deliverable under the Request for Services (RfS) entitled: "*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) released in the context of the framework contract: 'Provision of services related to the implementation of Better Regulation Guidelines*" (VT/2016/027).

This report builds on our inception report of January 2021, the Interim Report of June 2021 and on discussions held with the Client over email and during our regular Project Report meetings

The final report is structured as follows:

- The remainder of **Chapter 1** includes a table of terminology
- **Chapters 2 to 7** present our final findings regarding Tasks 1-6 of this project
- **Chapter 8** presents our final conclusions based on the data collected.

This report is accompanied by the following Annexes:

Annex 1: Country-level reports

Annex 2: Literature review

Annex 3: Synthesis of EU-level interviews

Annex 4: Findings of the survey of self-employed

Annex 5: EU Member State clusters

Annex 6: Report of the Open Public Consultation

Annex 7: Expert workshop report

Annex 8: Calculation Tables for Impact Assessment

Annex 9: Annex 3 for the European Commission IA Report - 'Who is Affected and How'

1.1. Table of Terminology

Antitrust	Field of competition law and policy. In the EU context, both the rules governing anti-competitive agreements and practices (cartels and other forms of collusion) based on Article 101 of the Treaty on the Functioning of the European Union and the rules prohibiting abuses of (existing) dominant positions based on Article 102 of the Treaty on the Functioning of the European Union, are commonly referred to as 'antitrust'.
Cartel	Arrangement(s) between competing firms designed to limit or eliminate competition between them, with the objective of increasing prices and profits of the participating companies and without producing any objective countervailing benefits. In practice, this is generally done by fixing prices, limiting output, sharing markets, allocating customers or territories, bid rigging or a combination of these specific types of restriction. Cartels are harmful to consumers and society as a whole due to the fact that the participating companies charge higher prices (and earn higher profits) than in a competitive market.
Collective bargaining	A method in which representatives of employees and employer determine the terms and conditions of employment for employees through direct negotiations.
Collective bargaining agreement	The document incorporating the results of the negotiations between the parties; a written instrument setting forth the terms and conditions of employment, grievance resolution procedures, and any other accords resulting from collective bargaining.
Competition	A situation in a market in which sellers of a product or service independently strive for the patronage of buyers in order to achieve a particular business objective, for example, profits, sales and/or market share. Competitive rivalry between firms may take place in terms of price, quality, service or combinations of these and other factors which customers may value.
Consultation	The process through which the employer seeks the opinions and suggestions of employees and employee organisations in the formulation and implementation of policies
Employee	A person employed by another usually for wages or salary.
False self-employment	False self-employment is commonly understood as involving persons/workers registered as self-employed whose conditions of employment are de facto dependent employment. National legislation and/or court decisions determine this status. This employment status can be used to circumvent tax and/or social insurance liabilities, or employers' responsibilities.
Informal employment	Employees are considered to have informal jobs if their employment relationship is, in law or in practice, not subject to national labour legislation, income taxation, social protection or entitlement to certain employment benefits (advanced notice of dismissal, severance pay, paid annual or sick leave, etc.).
Monopoly	Market situation with a single supplier (monopolist) who — due to the absence of competition — holds an extreme form of market power. It is tantamount to the existence of a dominant position. Under monopoly, output is normally lower and price higher than under competitive conditions. A monopolist may also be deemed to earn supra-normal profits (that is, profits that exceed the normal remuneration of the capital). A similar situation on the demand side of the market, which is with a single buyer only, is called monopsony.
Platform economy	Related to the collaborative, sharing or gig economy, this is a business model where activities are facilitated by creating an open and online platform for the provision of services often provided either digitally or on-the-ground by private individuals. Emerging as a new form of organising work and employment opportunities via platforms, it involves three categories of actors: (i) the platform (often large corporations); (ii) the service provider and (iii) the user/client. The relation between the platform and service provider is often unclear in terms of their employment status.
Platform worker	A platform worker is an individual who works for one or more online platforms. These workers are often regarded as self-employed as a result of standard contractual arrangements established by the platform, or their employment status is unclear, affecting working conditions.
Self-employment	The state of working for oneself rather than an employer. A self-employed person is pursuing a gainful activity for their own account, under the conditions laid down by national law. However, different understandings and definitions of the term self-employment across Member States.

Social partners	The representatives of management and labour, ie an employer representative body and a trade union, participating in a cooperative relationship for the mutual benefit of all concerned.
Solo self-employed	Solo self-employed is the term used to describe those within the self-employment sector who work entirely on their own account, without employees.
Strike	A work stoppage by employees resulting from a bargaining impasse or some other conflict between employer and employee.
Temporary work agency	Any natural or legal person who, in compliance with national law, concludes contracts of employment or employment relationships with temporary agency workers in order to assign them to user undertakings to work there temporarily under their supervision.
Undeclared work	Any paid activities that are lawful as regards their nature but not declared to public authorities, taking account of differences in the regulatory systems of the Member States. Member States have adopted a variety of different definitions focusing upon non-compliance with either labour, tax and/or social security legislation or regulations.
Undeclared self-employment	Paid activity conducted by the self-employed where income is not declared for the purpose of evading either tax and/or social insurance contributions owed. The self-employed may not declare either some or all their income.

2. Overview of main data collection tasks

2.1. Country mapping exercise

The country mapping research was launched on 6 January 2021 and closed on March 6 2021. The mapping was carried out by internal and external country experts,[19] using country templates that were agreed with DG COMP in January 2021.

The country experts were supported on an ongoing basis by the Project Manager Andrea Broughton and the Deputy Project Manager Manuel Gil, who answered queries as they arose. The process was also supported by our legal and industrial relations experts, who also answered queries as they arose.

The country experts used the following sources for the country desk research:

- **National, regional and local government websites and documentation.** This is a source for relevant datasets relating to self-employment and platform work, and information on the relevant legal provisions in force in each country. In countries where information about collective bargaining activities is registered with the public authorities, this should be available from official government studies and documentation.
- **National, regional and sectoral social partner websites and documentation.** This enables researchers to access information about trade union activities and initiatives in relation to self-employed.
- **Studies and documentation from organisations representing self-employed people.** This enables researchers to collect information about collective agreements and protection for self-employed.
- **Studies and documentation from academics and experts.** This enables researchers to assess the debate and the main issues around competition law and collective bargaining coverage of self-employed in each country.
- **Any other relevant studies and statistics**

The country experts also carried out up to five interviews per country, depending on the relevant of the situation of specific countries, in order to complement the desk research findings and fill any gaps. The interviewees were chosen from the following groups:

- Legal experts in the areas of employment law and competition law, with an emphasis on collective agreements for self-employed and how competition law relates to this
- Representatives of competition authorities
- Representatives of the social partners (trade unions and employers organisations)
- Academics and experts in the area of self-employment and collective bargaining

These interviews were carried out in the language of the country, on a semi-structured basis, following a discussion guide which was approved by the Client on 19 January 2021. The interviews covered the general situation of self-employed in each country, statistics relating to self-employed, employment and competition legislation and how it relates to collective for self-employed, relevant case law, the positions of relevant actors

[19] For full details of national experts, see Annex 1.

such as the government, trade unions, employer organisations or other experts, and assessments about future policy in relation to collective bargaining for self-employed.

The completed country reports were submitted by the beginning of March and subjected to a quality assurance process, using a team of six Ecorys senior in-houses experts. This process checked the content, ensured that all relevant sections were covered by the country research and ensured quality and consistency between reports. The country reports were then returned to the country experts so that they could address quality assurance comments. The finalised versions were completed in mid-March and are attached to this report as Annex 1.

2.2. EU-level literature review

Our research team conducted an extensive review of the existing academic and governmental literature and academic debate around the topic of self-employment, collective bargaining agreements and competition law. The review covered 110 different EU and international academic papers, studies, reports and publications, covering different aspects of the topic of our study in particular the review includes:

- **The definition of self-employment**, which has multiple implications for the study. For example: the preference for a specific policy option requires a clear understanding of these concepts, and the different options require clear definitions of the different eligible workers since in legal terms different national definitions of self-employed may influence the enforcement and the effectiveness of an EU initiative. The review proceeds through "concentric circles" and analyses the definitions of self-employed work, the intermediate (or "third") category used in some Member States to identify self-employed with subordinated characteristics, the phenomenon of 'bogus' self-employed and platform work.
- **Analysis of quantitative studies,** examining the dynamic of self-employment and solo self-employed and highlights some of the main trends which have to be taken into consideration in the assessment of the proportionality and the potential impacts of the EU initiative. In other parts of this study quantitative analyses are carried out in a more targeted manner in preparation for the scenarios. This review identifies the results of more general studies and the main statistical sources used.
- **Trends and drivers of self-employment**, focusing on the causal mechanisms affecting the development and structure of self-employment. These aspects are complex and include the interaction of many different factors, but examination of these factors helps to understand the possible future scenarios and the socio-economic context and the possible structural challenges to take into consideration in the preparation of policy options.
- **Collective bargaining and social dialogue for non-standard workers**, providing an overview of the issues directly connected with the EU initiative and in particular: social protection, which is one of the main reasons to reinforce collective bargaining among solo self-employed; collective representation and social dialogue for self-employed, which influences the potential effectiveness of collective bargaining in this sector; and the relationship between collective bargaining and competition law, which is the key point on which the EU initiative intends to act. This review aims to illustrate the main debate on the role of competition law in regulating self-employment. It also focuses on the debate in relation to platform workers from this perspective.
- **Overview of non-EU countries**, offering a general view on how other advanced countries are regulating collective bargaining and social protection for self-employed.

The literature revolving around the topic of self-employment is extremely wide and particularly heterogeneous, since the phenomenon embodies a traditional form of employment. It is also a traditional research topic which has undergone structural transformations over the last decades in terms of sector of development, workers involved, degree of consideration and attention also from the public and the political sphere. The picture is further complicated by the fact that different analytical lenses have investigated the topic, ranging from economic sociology and sociology of labour to labour law, to labour economics, statistics and industrial relations.

Against this complex backdrop, the present literature review starts from the references presented in the original call for tender for this study and from the most cited literature in the sociological debate over the last decades. Starting from this first selection of articles and documents, the literature reported in the reference lists of these contributions was consulted and, if considered relevant for the study, included. Further, a search using keywords was carried out within the main sociological repositories and digital libraries (specifically: Web of Science and JSTOR). The keywords used in the search were: *self-employment, self-employed, independent worker, economically dependent self-employed, autonomous worker, collective bargaining and competition law, platform work, gig work*, and *gig worker*.

The approach to this review was predominantly sociological because the majority of contributions come from that discipline. However, attention has been paid to the juridical debate raised in recent years in labour and competition law on self-employment and the way to ensure appropriate levels of protection for self-employed. On these aspects the review examines the positions of some competition law experts which intervened in recent years; such as Daskalova (2019) who proposes a coordinated mix of adjustments in competition and labour law to protect solo self-employed; Schiek and Gideon (2018) who suggest a reinterpretation of EU competition law to adapt it to the new employment market conditions; Lao (2018) who proposes an expansion of the antitrust labour exemption to the gig workers; OECD (2019c) who suggests to pay more attention to the effects on labour market in antitrust policy; Lianos, Countouris and De Stefano (2019) who point out the increasing conflict between labour law and competition law and the necessity of enlarging the right to collective bargaining; and Lianos (2021), who examines different possible strategies for reforming the interaction between labour and competition law.

The literature review includes academic studies, documents elaborated by international organisations, as well as studies carried out by European social partners (e.g. ETUC), which represent scientific studies conducted by internal experts. However, in order to avoid biased interpretations, political documents produced by the social partners, such as standing papers or manifestos, have been excluded. The literature review has tried to take into account the debate in EU countries and focuses mainly on contributions in English, which reflect an international debate, and on comparative studies. Due to language limitations, the same level of coverage could not be ensured for all EU countries. To mitigate this limitation, comparative studies published by acknowledged and prestigious research bodies and institutions, such as Eurofound, ILO, KPMG, covering all the EU Member States have been analysed in depth and represent a reliable comparative source of information.

In terms of the temporal scope of the analysis, the review starts from the most recent publications on the topic published over the last decades, going back to the 1980s when relevant contributions or seminal scholarships were identified. As expected, the cited literature is particularly recent on the topic of gig and platform work, while the debate on self-employment and its development includes older contributions.

There are, however, some limitations that have to be taken into account. First, as anticipated, methodologically it does not represent a systematic review of all the literature available in the field, carried out by browsing all potential outlets and keywords. Second, due to language constraints, predominantly English literature only has been included, accordingly excluding potentially relevant contributions in other languages.

Main findings of the literature review

Definitions of self-employment – The review records a general difficulty that national legal frameworks have in defining new types of work and, more generally, self-employment. In the past the European Parliament[20] and the European Commission have exhorted the Member States to improve their definitions in order to reduce the phenomenon of false self-employment, but no significant improvements have been signalled. Scientific literature encounters similar problems and reflects on the different country-specific legal frameworks and the methodological perspective of considering a self-employed person as a worker or an undertaking. In practice, it seems very difficult that in a short time Member States will arrive at a common definition of self-employment and therefore any policy initiative needs to coexist with a broad variety of definitions of self-employment.

[20] See European Parliament Resolution on the Renewed Social Agenda (6 May 2009) https://www.europarl.europa.eu/doceo/document/TA-6-2009-0370_EN.html; European Parliament Resolution on Social Protection for All (14 January 2014); https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52014IP0014.

The attempt of some countries (such as Italy, Austria, Spain, Portugal, Slovakia, Slovenia) to identify a third category of workers, so-called economically dependent self-employed, which joins elements of subordination and independence, creates its own problems. These experiences help to understand the possible elements that can be used to differentiate workers and to solve those intermediate professional profiles that can be poorly regulated and are often misused, but they are not generalised and are consistent with the individual legal framework of the country which adopted them.

This approach also does not solve the issue of false self-employment, which is a predominant feature in several of the countries applying this third category. False self-employment depends on a different legal definition of their jobs, but also on a fiscal and regulatory framework which allows the development of this category of workers. In practice, the phenomenon of false self-employment deserves policy attention but the condition is difficult to define and to identify in legal terms; this paradox could weaken policy initiatives to support false self-employed or other forms of weak self-employed. The FNV Kunsten ruling by the CJEU on this topic might represent a pioneering ruling affirming the protection of false self-employed via the application of collective agreements.

Platform workers belong to the most dynamic and emerging group among the different forms of self-employment.[21] Technological and organisational innovations have contributed to the increase in their numbers but have also made their legal and analytical definition more complex. These workers are experimenting with new forms of technological dependence and at the same time they benefit from new levels of flexibility in working time. However, many of these workers experience a low level of social protection and higher level of personal risk. These elements make platform workers the most pressing challenge to existing legal definitions and fuels the debate on the social protection of self-employed who are in a comparatively weak position. As comparative studies have demonstrated, the specific challenges of platform work can be effectively addressed through specific policies because of the lack of a specific regulatory framework and national differences in defining the employment status of platform workers.[22] However, platform workers are not the only weak category of self-employed; challenges concerning social protection schemes and employment protections and representation of self-employed require a more general approach that jointly addresses other forms of self-employment.

The review highlights some definition issues that need to be taken into consideration when the EU policy initiative covering collective bargaining of self-employed is designed:

- The definitions of self-employed in the Member States and their assimilation into undertakings in EU competition law are based on concepts (independence, self-organisation, etc.) that are different from those used to define platform workers or liberal professionals as included in the policy options. The contemporary use of different types of definitions (platform workers, self-employed, liberal professionals) may create potential difficulty in the interpretation of the initiative;
- Member States do not adopt the same definition of self-employment and even if the basic concepts are shared, this can produce different interpretations and coverages of the EU initiative;
- Platform workers are defined by the use of new technology and this is changing rapidly. This may generate a relatively rapid obsolescence of some definitions in the EU initiative.

The analysis of quantitative studies – Interesting findings stemmed from this analysis. First, the total number of self-employed is decreasing, while new forms of self-employment, such as platform workers and professional self-employed without employees, is increasing significantly. These general trends confirm that a "self-employment" problem per se does not exist, but that internal changes and new forms of self-employed work are creating a social and political challenge. Second, knowledge of these new forms of work is increasing but it is still quite limited and statistics encounter difficulties in capturing such fragmented and diversified phenomena. This means that policy decisions have to be taken with limited knowledge in relation to the size, trends and preferences of these workers. Third, the analysis also reviewed several recent surveys (such as the COLLEEM

[21] Platform workers are those individuals who work for online platforms. They are a diverse group of workers, including those with different types of employment status, including false and genuine self-employed. Unless otherwise specified, self-employed platform workers here cover both false and genuine self-employed.

[22] CEPS, EFTHEIA, and HIVA-KU Leuven (2019) and Lenaerts et al. (2017).

survey and surveys by Eurofound) that can complement the traditional European Labour Force Survey. This integration has to be carefully implemented, because data from the different sources are not mutually comparable and their geographic and thematic coverage differs.

Trends and drivers – Scholars[23] generally share the idea that platform workers and new forms of self-employment will increase further in the future, based on a number of different drivers: technology and especially ICT, increasing flexibility of production, new forms of outsourcing and organisation of large and medium firms; increasing tertiarisation of production processes; changes in lifestyles and individual preferences; and decreasing opportunities for stable employment. All these drivers are rooted in current socio-economic trends and have been accelerated by globalisation but are hard to model to predict future changes. However, they are important elements in terms of assessing the relevance and the potential impacts of the different policy options of the EU initiative.

Social protection – Both traditional and new forms of self-employment are acknowledged as raising key challenges for social policy across the EU. Social protection schemes for self-employed are characterised by a high degree of voluntarism. In addition, these workers are generally subject to the civil and commercial legislative framework and not to labour law; accordingly, they do not enjoy protections ensured by labour rights and collective bargaining. In this respect, self-employed, and especially those in the weakest position, are subject to different levels of protection. Further, a specific system of social protection for these workers is generally lacking. Hence, the examined literature confirms the need for initiatives to extend and customise social protection for self-employed who are in a weak position. The recognition of broad labour rights and collective bargaining can play a positive role in terms of this aim. The review also highlights that collective bargaining is not the only instrument in terms of reinforcing social protections but that other elements (such as labour law, taxation and access to private social protection schemes) should also be developed.

Collective representation and social dialogue - The role of trade unions and collective bargaining as the primary means of collective representation for workers has declined since the last decades of the 20th century. Consequently, traditional industrial regulation based on collective bargaining is becoming less effective and is hardly applicable to emerging industries (such as the platform economy). In this context, collective bargaining at company level or individual bargaining is growing. The individualisation of bargaining brings about an increase in individual risks and opportunities and a growing disequilibrium between workers in strong and weak positions. The application of collective bargaining to self-employed may reduce these distortions and produce other long-term effects, such as stabilising market conditions for enterprises, promoting job creation and quality, generating new regulatory frameworks for new types of work, and improving the working environment. Trade unions are extending their influence on the self-employed and, even where the recruitment of self-employed is not permitted, trade unions provide services and assistance. However, the representativeness of traditional trade unions is still weak and fragmented among self-employed, while new forms of associations (called 'quasi-unions') to provide assistance and lobbying activities are growing. However, these are still new and not fully institutionalised, given the fact that they are not yet recognised as social partners. In general, platform work and new types of jobs also require a new model of representation, which has to be able to cope with flexibility, discontinuity and the intermediation of labour.

Relationship between collective bargaining and competition law – This debate is relatively recent and has grown in recent years as a reaction to case law hampering the right of collective bargaining of remuneration for self-employed. One component of this debate concerns the pre-eminence of labour rights over EU competition law and the consequent necessity of adjusting the latter to the former. This stance moves from the premise that self-employed should be firstly considered as workers, and then as autonomous. Being recognised as workers implies the pre-eminence of the application of employment rights over competition law. This argument is widespread, but not all scholars share it.[24] Some authors point to the definition of self-employed; some argue

[23] Malgarini, Mancini and Pacelli (2013); Bologna and Fumagalli (1997); Pichault and Semenza (2019); Murgia et al. (2020); Drahokoupil and Fabo (2016), European Commission (2016); McKinsey & Company (2016); Matijević (2018); Benz and Frey (2008); Bureau and Corsani (2014); Schulz et al. (2017); Dawson et al. (2009); Hatfield (2014); Blau (1987).

24 On this debate see Daskalova (2019), De Stefano and Aloisi (2018b), OECD (2019c), ETUC (2018), Biasi (2018), Schiek and Gideon (2018), Kilhoffer et al. (2019), Lianos, Countouris and De Stefano (2019),

that collective bargaining for some self-employed, including fees, should be granted since they are not real undertakings; some note that sub-groups of self-employed providing personal service and work can defined in relation to this. Other authors focus on the unbalanced market power of the supply and demand of self-employed and propose to reduce the exaggerated powers of some platforms or to adjust EU competition law to the new labour markets and self-employment conditions. Others underline that the adjustments in EU competition law should be coordinated with the many national legislative initiatives to ensure basic rights and social protection.

In synthesis, there is a general agreement on the fact that EU competition law should better embrace the rights and needs of self-employed and not intervene on their right for collective bargaining. An EU initiative is also considered as necessary to enforce changes in the rules for collective bargaining. However, possible initiatives to this aim differ among scholars;[25] some crucial points determine the main differences among the current positions:

1. Pre-eminence between competition and labour law (or rights);
2. Definition of self-employed in a double perspective:
    a. If (or when) they have to be considered undertakings or workers and consequently whether or not they are subject to competition law;
    b. distinguishing the different types of self-employed in order to be able to apply 'selective' rights for collective bargaining;
3. The different market power of supply and demand of self-employed and the more general need for assessing effects of competition decisions on the labour market as well and not only on consumers;
4. The effects provoked by changes in EU competition law for self-employed may be significant and in particular in relation to the working conditions and industrial relations of the relevant sectors, market regulations and interpretation of competition rules, other EU and national initiatives for self-employed.

Overview of non-EU countries – Advanced economies are facing similar problems in regulating new forms of self-employment. A brief overview of some experiences in the USA, Canada, Australia and South Korea may have some relevance for EU initiatives. These countries are dealing with the same issues highlighted above (e.g. legal definition of self-employment, coherence between competition law and labour rights). In particular, Canada and Australia allow collective bargaining for self-employed with essentially quite simple and realistic approaches, while the USA and South Korea do not allow collective bargaining, but are committed to better defining and regulating self-employed work.

In the **USA** the definition of self-employed worker differs between federal states and this has created legal uncertainty in relation to non-standard workers. In 2015 the US Department of Labour published a memorandum aimed at reducing this ambiguity.[26] In general, collective bargaining is not allowed for independent contractors, but some collective bargaining agreements were agreed and the general presence of unions among workers of new platforms and gig economy is growing. A recent law in California[27] equalises a number of categories of independent contractors to employees and in this way extends social protection standards to these self-employed; around 1 million of workers are estimated to be impacted by these rules.

Canada adopts a legal definition of the different types of work that is quite articulated, with the aim of discouraging employers from using self-employed in an inappropriate way.[28] Collective bargaining for 'dependent contractors' (self-employed working under certain types of subordination) is allowed. Since the beginning of 1960s the capacity of collective bargaining for diminishing the power imbalance in the labour market was recognised in the case of employees as well as dependent contractors.

In **Australia,** competition law allows businesses, including independent contractors, to collectively negotiate with suppliers or customers if the Australian Authority on Competition considers that collective bargaining would

[25] See, especially, Daskalova (2019), Lao (2018), Lianos (2021).

[26] https://www.dol.gov/agencies/whd/opinion-letters/administrator-interpretation/flsa#2015

[27] https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB5

28 For the Canada Labour Code see https://laws-lois.justice.gc.ca/eng/acts/L-2/; see also Arthurs (2006) and OECD (2019e).

result in overall public benefits.[29] One advantage of this approach is that it does not require the categorisation of workers. To implement collective bargaining according to that rule, a formal procedure is outlined and has to be followed.

In **South Korea**, labour law[30] does not allow independent contractors to collectively bargain; but in recent years case law has been less reluctant to consider some independent contractors as employees. All self-employed are still excluded from protections defined for employees, but recently a relevant national authority formulated a code of conduct for fair contract terms between workers and platform companies.[31]

Based on these findings, some general observations are as follows:

- as is the case for the EU, the countries examined here are all dealing with a changing labour market and the need for an appropriate regulation of new types of self-employment in order to ensure social protections and basic rights for the weakest self-employed;
- Where definitions are diversified and fragmented in terms of state competences, as is the case in the USA, the regulation of collective bargaining is also fragmented; by contrast, where the definition is homogenous (Australia and South Korea) and strictly applied (Canada) the number of self-employed requiring protection seems more limited and the regulation of collective bargaining seems more consistent. None of the countries use definitions based on the profession or the sector (such as liberal professions or platform workers) in their legal framework, but prefer definitions based on the dependence and autonomy of the self-employed worker and the type of work organisation in which they operate.
- The experience of the countries examined here is comparable to the policy options assumed by the EU as set out in Section 3.2 of this report (Problem definition of policy options):
    - The USA is comparable to option 1 (platform workers), as the large predominance of false self-employed and the unbalanced market power in some sectors has led to specific regulatory initiatives or a case-by-case acceptance of collective bargaining;
    - Canada and Australia may be associated to option 3 and 4 (all solo self-employed with or without liberal professions), but with different legal approaches and restrictions on allowed self-employed to bargain collectively;
    - South Korea cannot be associated to any policy option, in spite of some initial initiatives to regulate self-employment according to new labour market conditions;
    - The Australian experience is partially associable to Option 2. In Australia a turnover threshold identifies the enterprises eligible to the exemption, as in Option 2 a threshold of the size of the employer companies should identify the eligible self-employed. However, the Australian initiative is designed for enterprises rather than self-employed and uses the threshold differently from Option 2 (directly in relation to undertakings instead of indirectly in relation to self-employed employers).

Some direct observations on the four policy options under assessment – This literature review has analysed some basic and debated factors concerning the reconciliation of competition law and labour law and possible improvements of the right to collective bargaining for self-employed. The main implications of the previous findings on the policy options of the EU initiative can be summarised in the following elements:

- The general discrepancy between the definitions of self-employed assumed in the policy options (platform workers, liberal professions, etc.) and the definitions adopted in case law and labour legal frameworks (false or dependent self-employed, dependent contractors, etc.) should be clarified. To

[29] ACCC (Australian Competition and Consumer Commission), Collective bargaining class exemption, Guidelines, June 2021. Available at: https://www.accc.gov.au.
[30] See the Labour Standards Act (https://elaw.klri.re.kr/eng_service/lawView.do?hseq=25437&lang=ENG#:~:text=The%20purpose%20of%20this%20Act,development%20of%20the%20national%20economy.)
[31] ILO, World Employment and Social Outlook 2021: The role of digital labour platforms in transforming the world of work International Labour Office – Geneva, 2021.

consider all the self-employed as 'undertakings' may result in being hardly compatible with the policy options aimed to reinforce the market power of the weakest self-employed. Some authors reflected on the possibility of introducing new definitions of workers in order to better reconcile labour law and competition law. At the moment, this possibility is out of the scope of the current initiative, which, however, has to take into careful consideration which definitions of self-employed to cover because the homogeneous enforcement of the new rules in all the Member States depends on this.

- Option 1 (platform workers) responds to a general preoccupation on one of the weakest and fastest-growing components of the self-employed workforce. More generally, the utility of focusing a regulatory initiative on the groups of weakest self-employed, as well as the necessity of an EU initiative for enforcing widespread and standardised rules, is recognised by many observers. Some case law and national policy initiatives have already recognised the right to bargaining and the need for higher salaries and social protection of these self-employed. However, this is because platform workers have been considered as false self-employed in a subordination position similar to that of employees, not simply because they work through or for platforms.
- Option 2 (platform workers + solo self-employed providing their own labour towards professional customers of a certain size) includes a wide range of self-employed. It may encounter difficulties in implementation because information on solo self-employed per type of customers have to be extracted from tax registers and introduces segmentations in relation both to self-employed and enterprises. The criterion of dependence (e.g. number of clients, autonomy) is generally more commonly used in legal and analytical terms to identify self-employed suffering from subordination or weakness in their contractual position.
- Option 3 (platform workers + all solo self-employed - except regulated/liberal professionals - providing their own labour to professional customers of any size). Observations on this option are similar to that of the following option 4, with the exception of the exclusion of regulated/liberal professionals. The number of self-employed in liberal professions is increasing in accordance with the growing tertiarisation of the EU economy and phenomena of dependence are frequent as in the platforms. The exception of this category may not be fully justifiable, as well as difficult to manage in relation to the differences in the national regulation of these professionals,
- Option 4 (platform workers + all solo self-employed providing their own labour to professional customers of any size). Some authors[32] would prefer this broader option, based on a rights-inspired approach, considering that all workers, dependent or independent, have the same rights to bargain collectively. Some non-EU countries, such as Canada and Australia, already adopt similar approaches. However, this option raises the question of respecting the level playing field, which should be reached with specific references to the market powers of solo self-employed. In this respect Ireland and Australia propose examples of notification and control of these processes.

For a full version of the literature review, see Annex 2.

2.3. Analysis of Labour Force Survey data

As part of the work for Task 1, our research team conducted an analysis of more detailed occupations and income of solo self-employed using data from the latest European Labour Force Survey. At the time of data collection, data from 2010 through 2020 was available. Below are the final results of our analysis.

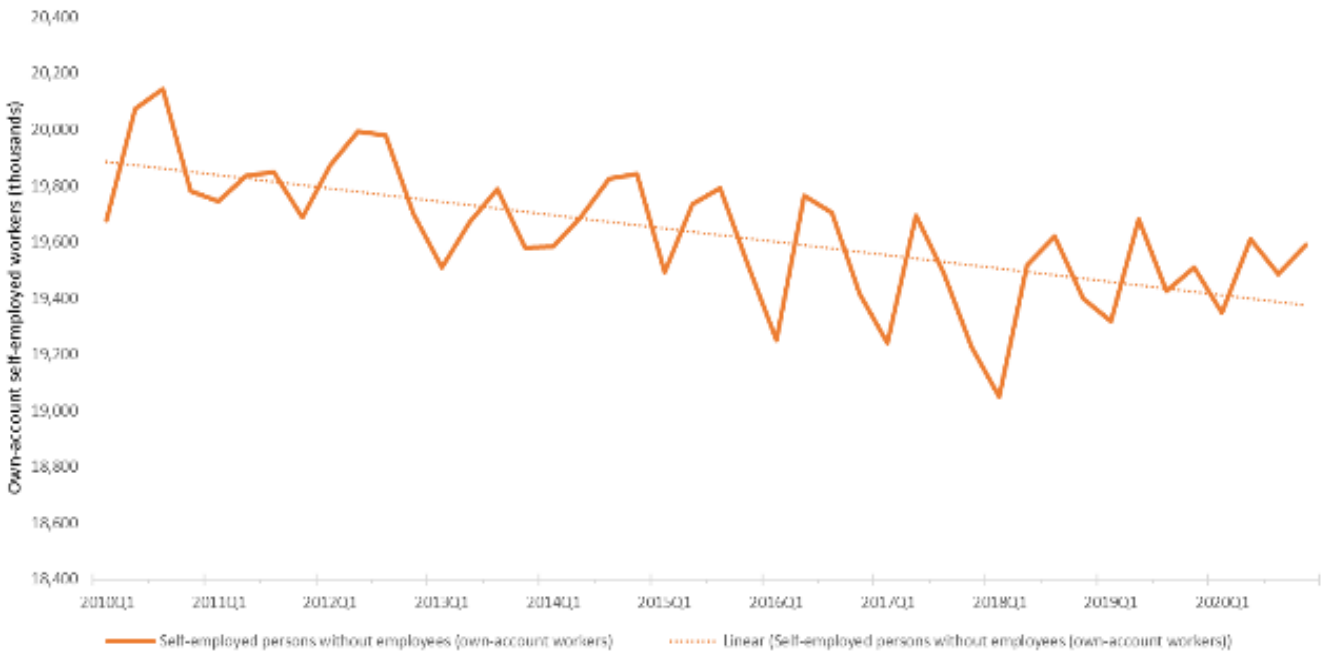
The number of own-account self-employed, i.e. solo self-employed, in the EU27 decreased from 19.9million in 2010 to 19.5 million in 2020. This number includes all people who report themselves as solo self-employed in the European Labour Force Survey. This decline was mainly driven by agricultural workers – the number of solo-self-employed professionals and service and sales workers increased in the same period (see Figure 2.2

[32] See, for example, Lianos, Countouris and De Stefano (2019) and (2021).

further below).[33] Thus, for the policy options we will need to make assumptions about the number people who courts would decide to be false self-employed. Nevertheless, since the Labour Force Survey and the COLLEEM II studies both rely on self-reported employment status of people, it is safe to conclude that there is little overlap between the populations of (self-reported) self-employed according to the Labour Force Survey and platform workers.

According to the COLLEEM I and II studies of 2020[34] the number of marginal platform workers (every month but both less than 10 hours per week of work and less than 25% of personal income) almost doubled between 2017 and 2018 from 1.6% to 3.1% of all adults aged 16-74 in fourteen Member States. The numbers of sporadic platform workers (working less than monthly through platforms) also increased, from 1.9% to 2.4%. In addition, the number of people doing platform work as a secondary job[35] increased between from 3.6% to 4.1% of all adults aged 16-74 in fourteen EU Member States. However, the number of main platform workers (more than 20 hours per week of work or more than 50% of personal income) declined from 2.3% to 1.4%. The authors conclude that overall platform work increased slightly between 2017 and 2018, that platform work as a main job is still a limited phenomenon in the EU but that it nevertheless is sufficiently substantial to merit policy attention.

Figure 1: Own-account self-employed (2010-2020) (EU27)



Source: Ecorys analysis using the Labour Force Survey (Eurostat: lfsq_egais)

The graph below correlates the own account self-employed to the total number of workers from 2010- 2020. The left-hand axis shows the number of self-employed (orange line) and the right-hand axis shows the number of employees (blue line). After 2015, the number own-account self-employed decreased, while the number of employed workers increased. At the beginning of 2020 there was an overall drop in employment, however the decline affected employees more than the self-employed.

[33] According to Eurofound (2017), the percentage of solo self-employed in employment increased in 2004 and again between 2008 and 2012, but it should be kept in mind that total employment declined during the financial crisis starting in 2008 and the aftermath. During 2013-2015 (the most recent year in the Eurofound data) total employment and the percentage of solo self-employed stabilized. See https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1718en.pdf

[34] See https://publications.jrc.ec.europa.eu/repository/handle/JRC118570

[35] Secondary platform jobs are defined as work through platforms (a) which accounts for 20-25% of personal income unless they work 20+ hours per week through platforms, or (b) work through platforms for 10-19 hours per week unless they gain more than half of income through platform work, or (c) which accounts for less than 25% of personal income but they work more than 20 hours per week through platforms, or (d) in which they work less than 10 hours per week but they gain more than half of income through platform work.

Figure 2: Comparison of trends of Own-account self-employed and the total number of employed workers (2010-2020) (EU27)

Source: Ecorys analysis using the Labour Force Survey (Eurostat: lfsq_egais)

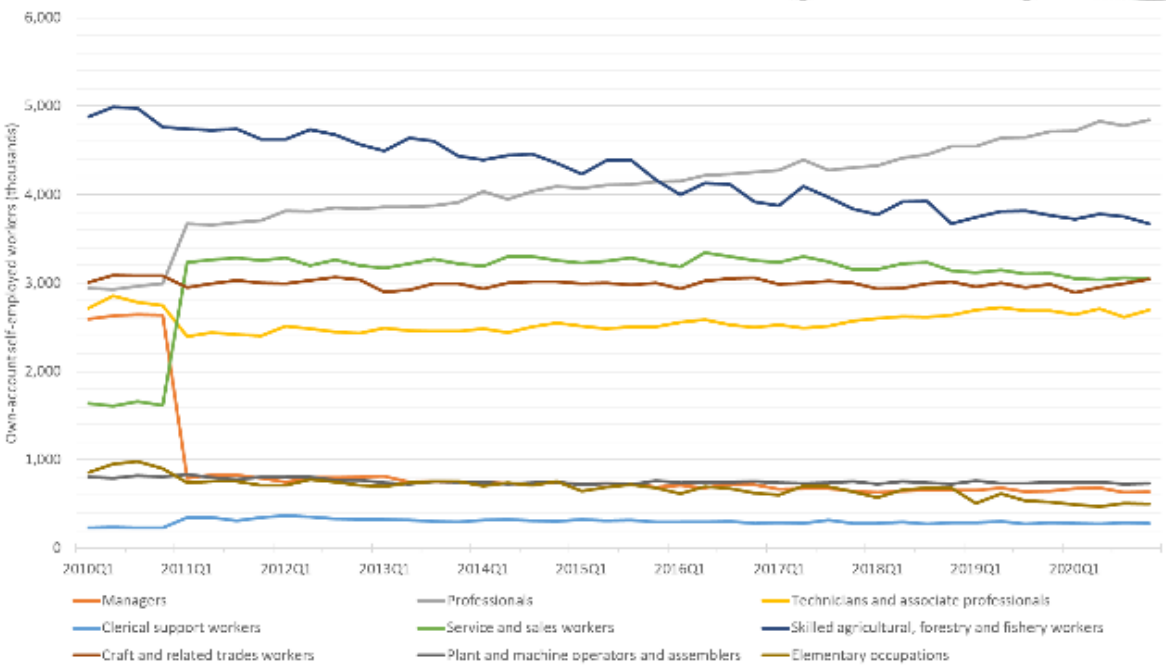
The graph below shows the EU27 trend by occupation for own account self-employed. *Professionals*[36] and *skilled agricultural, forestry and fishery* workers[37] have the highest share of workers from 2010-2020. The number of own-account self-employed in the *professionals* occupation increased from 2.9 million in 2010 to 4.7 million in 2020 and in 2015 passed the number of own-account self-employed agricultural workers, which declined from 4.9 million in 2010 to 3.7 million in 2020. *Clerical support workers*[38] was the occupation with the least amount of own-account self-employed; however, they saw a slight increase from 2010 to 2020, 0.23 million to 0.28 million respectively.

[36] **Professionals** include science and engineering professionals, health professionals, teaching professionals, business and administration professionals, information and communications technological professionals and legal, social and cultural professionals. https://www.ilo.org/public/english/bureau/stat/isco/docs/resol08.pdf

[37] **Skilled agricultural, forestry and fishery workers** include market-oriented skilled agricultural workers (including market gardeners and crop growers, animal producers, mixed crop and animal producers), market oriented skilled forestry (including forestry and related workers and fishery workers, hunters and trappers), fishing and hunting workers, subsistence farmers, fishers, hunters and gatherers (including subsistence crop farmers, subsistence livestock farmers, subsistence mixed crop and livestock farmers, subsistence fishers, hunters, trappers and gatherers). https://ww.ilo.org/public/english/bureau/stat/isco/docs/resol08.pdf

[38] **Clerical support workers** include general and keyboard clerks (including general office clerks, secretaries (general), and keyboard operators), customer service clerks (including tellers, money collectors and related clerks and client information workers), numerical and material recording clerks (including numerical clerks, material-recording and transport clerks), and other clerical support workers. https://www.ilo.org/public/english/bureau/stat/isco/docs/resol08.pdf

Figure 3: Own-account self-employed in EU 27 by occupation (2010-2020)



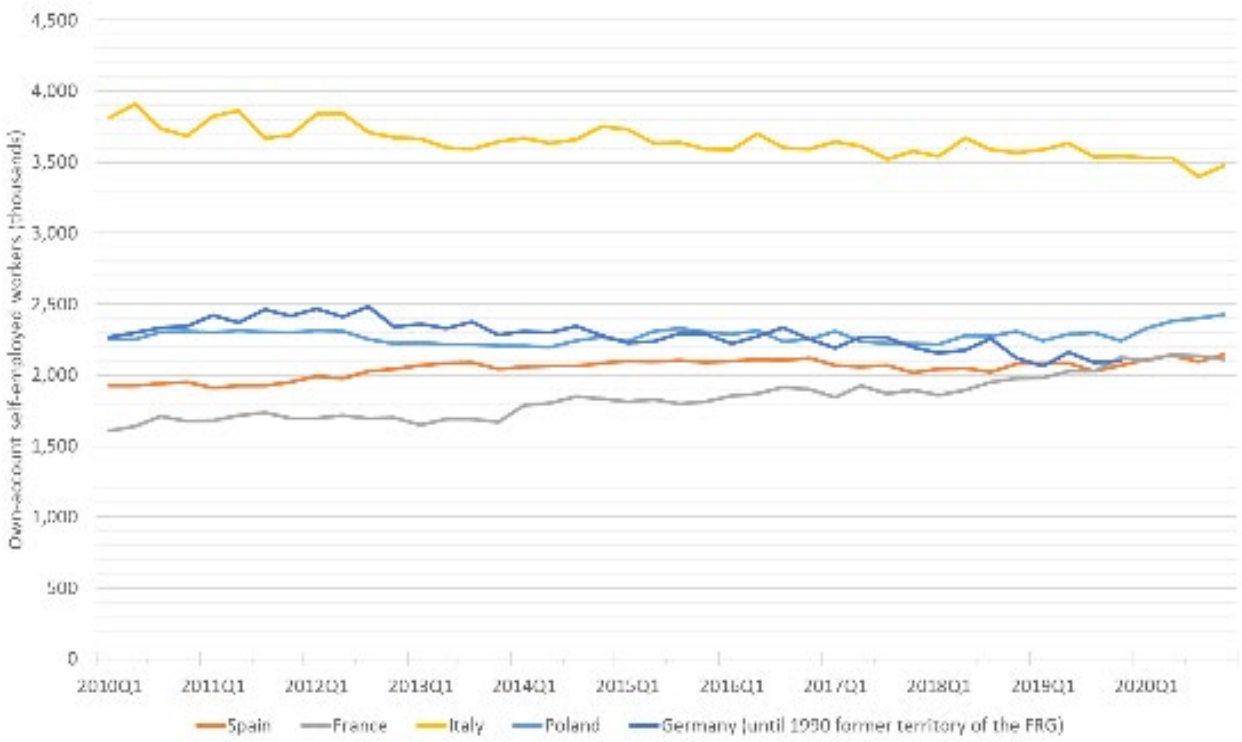
Source: Ecorys analysis using the Labour Force Survey (Eurostat: lfsq_egais)

The trends for professionals, skilled agricultural workers, and service and sales are the same for both own-account self-employed and the total number of employees in EU27 from 2010-2020, which indicates that this a general trend of the EU labour market. However the trend for clerical support workers, elementary occupations workers and plant and machine operators is different for the total number of employed and own-account self-employed, see graphs below.

With regard to skilled agricultural workers, unfortunately no further distinction between farmers without employees and own-account skilled agricultural labourers is possible, and it is conceivable that farmers without employees hire large numbers of seasonal workers.

Italy is the EU Member State with the largest number of own-account self-employed, with still over 3.4 million workers in 2020 despite a decline in the preceding decade. The number of own-account self-employed also declined in Germany, whereas in Spain and France, own-account self-employed increased. In Poland, the number of own-account self-employed stayed relatively stable at about 2.3 million workers.

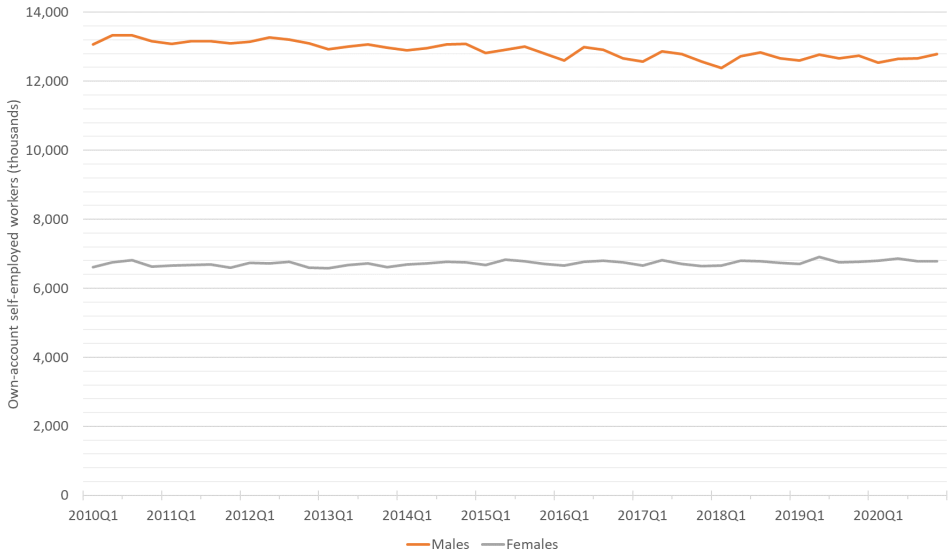
Figure 4: Own-account self-employed (2010-2020) (Germany, Italy, Poland, Spain and France)



Source: Ecorys analysis using the Labour Force Survey (Eurostat: lfsq_egais)

The figure below shows that the share of male and female self-employed workers has stayed relatively stable over the 2010-2020 time period (34-35% female, 66-65% male).

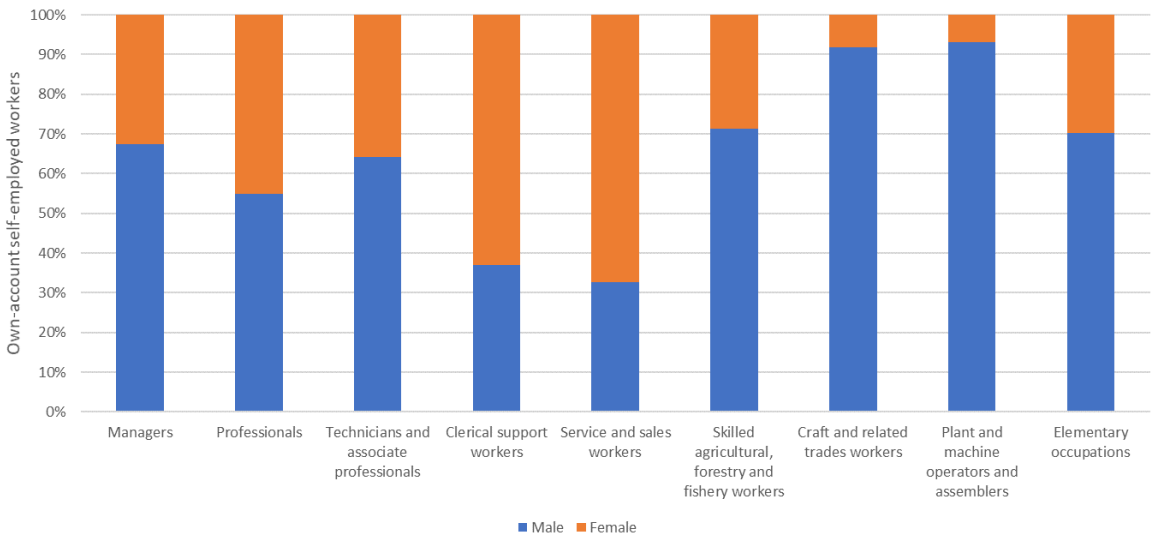
Figure 5: Own-account self-employed (2010-2020) (Males and Females)



Source: Ecorys analysis using the Labour Force Survey (Eurostat: lfsq_egais)

The figure below shows that the occupations which are dominated by women are clerical support workers and service and sales workers. Men dominate the craft and related trades workers, plant and machine operators and assemblers, and elementary occupations.

Figure 6: Own-account self-employed (2020) (share of male/females per occupation)



Source: Ecorys analysis using the Labour Force Survey (Eurostat: lfsq_egais)

For the second policy option, under which only own-account self-employed working for large firms would be allowed to bargain collectively, the number of own-account self-employed by the size of the clients they typically work for (counting consumers as one-person clients) would be useful. Unfortunately, no Labour Force Survey statistic is available on this. The Labour Force Survey does ask people about the size of the firm in which they work, but not for self-employed working on their own account. Crossing with self-employed with firm size therefore only shows the numbers by firm size of the self-employed *with* employees, which is not useful for our analysis. For an indication of how many self-employed would be affected depending on firm size thresholds, the online survey for this study provides the only empirical evidence. The OPC also provides anecdotal evidence, please see subsequent sections.

For the third policy option, under which self-employed in liberal professions (in the end approximated with the occupational category of professionals due to the lack of an EU definition of liberal professions, see Chapter 3 and futher), are excluded from the possibility to collectively bargain their pay and conditions, the numbers of solo self-employed by occupation is relevant. Via the Eurostat portal, data are published by main occupational group.

Regardless of the third policy option, numbers of solo self-employed by occupation are relevant to assess the potential impact of collective agreements by profession. The impact of collective agreements by sector could also be analysed, however only by 1-digit economic activities. These data are available from the Eurostat web portal and no further detailed data by economic activity is available in the Labour Force Survey microdata.

In Germany the occupation with the highest number of solo self-employed is professionals followed by technicians and associate professionals[39] as well as service and sales workers.[40] The occupation with the highest amount of solo self-employed in Poland is skilled agricultural, forestry and fishery workers, in Spain, it

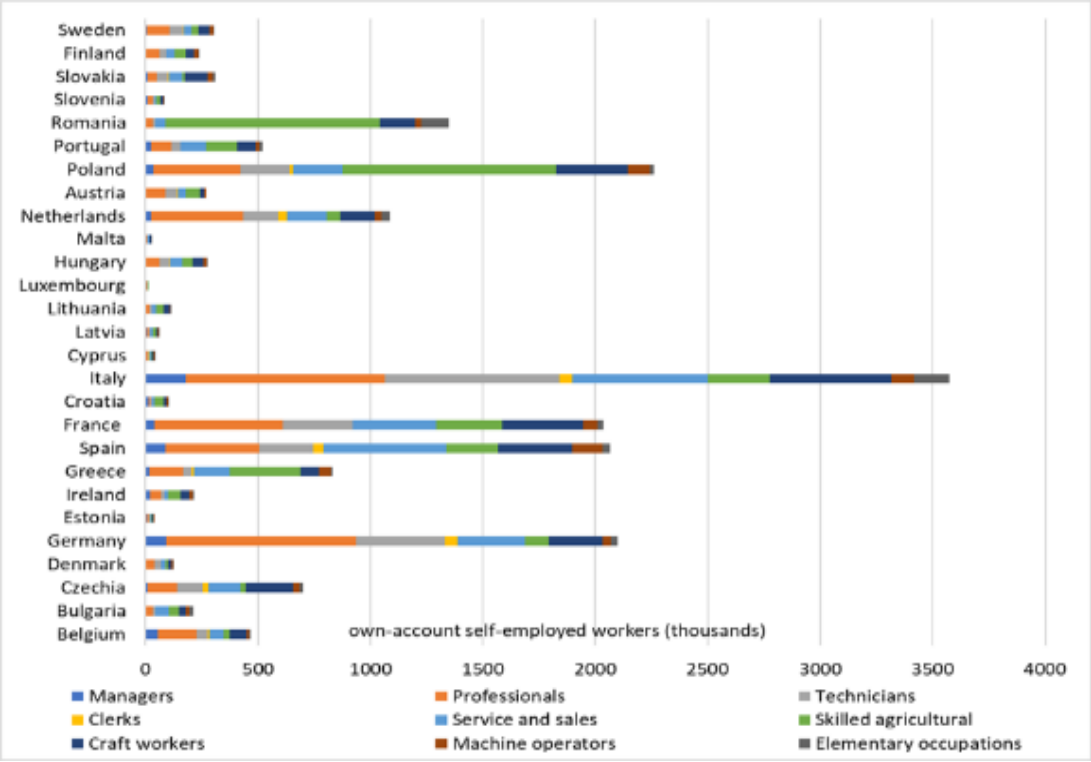
[39] Technicians and associate professionals include science and engineering associate professionals; health associate professionals; business and administration association professionals; legal, social, cultural and related associate professionals; and information and communications technicians.

[40] Service and sales workers include personal service workers, sales workers, personal care workers and protective services workers.

is service and sales workers, in France it is professionals, and in Italy it is professionals followed closely by technicians and associate professionals.

The high share of professionals in smaller countries such as the Netherlands imply that their absolute number is similar as in larger countries such as Spain, France and Poland. In Luxembourg over half of the own-account self-employed is a professional, but this has less effect on the EU total given the small size of the Luxembourg labour force.

Figure 7: Own-account self-employed in EU 27 by occupation (2019) in absolute numbers



Source: Ecorys analysis using the Labour Force Survey (Eurostat: lfsq_egais)

2.4. EU-level interviews

Our research team interviewed 14 experts and social partner representatives at EU level for this study between February and March 2021. The list of interviewees was discussed and agreed with the Client on 10 March 2021. Table 1 presents the final list of interviews conducted.

Table 1 Final list of interviewed experts

Name	Title/role	Field of interest	Date
Experts			
Francesco Rossi Dal Pozzo	Independent advisor and professor at the University of Milan	European law	Written contribution received in February
Massimo Pallini	Lawyer and professor of labour law and employment law at the University of Milan	Longstanding experience of cases of false self-employment and abuse of dominant position of large-medium size firms on so-called "semi-dependent workers".	Written contribution received in February
Valerio De Stefano	Professor of Labour Law at the University of Leuven. Former position at ILO	Labour law, labour and technology, competition and collective bargaining.	1 March
Giedo Jansen	Assistant Professor at the University of Twente	Sociology, political science and labour relations; self-employed heterogeneity and their representation.	4 March
Sophie Robin Olivier	Professor of Law at Sorbonne University	International and comparative law, European social law.	19 March
Stijn Broecke	Labour market economist at the OECD	Employment Analysis and Policy division of the Directorate of Employment, Labour and Social Affairs	22 March
Cristina A. Volpin	Competition expert at the OECD	Competition law, policy in digital markets, labour markets, sustainability and competition policy in the economic recovery	7 April
EU-level employer organisation representatives			
Rebekah Smith	Deputy Director in the Social Affairs department of BusinessEurope	Industrial relations, labour law and working conditions, social/employment aspects of digitalisation.	8 March
Luc Hendrickx	Director of Enterprise Policy and external Relations at SME United	Responsible for SME policy, better regulation, legal affairs, internal market issues	23 March
EU-level trade union representatives			
Dearbhal Murphy and Dominick Luquer	International Federation of Actors (FIA)	FIA is a global federation representing actors, performers and dancers, but not	11 February

		musicians and technicians, as they are represented by other organisations	
Isabelle Schömann; Joakim Smedman; Ruari Fitzgerald.	European Trade Unions Confederation (ETUC)	Isabelle Schomann (confederal secretary), Joakim Smedman (legal advisor on competition issues). Ruari Fitzgerald (policy advisor on collective bargaining).	11 March

The main purpose of conducting these interviews was the gain insights and viewpoints from recognised experts and stakeholders in this field. We also wanted to include varying viewpoints and accordingly sought to interview experts from diverse standpoints and backgrounds, including social partners (both employer and employee representatives), as well as legal experts in the areas of competition law and labour law. The questions for the interviews were drawn up in collaboration with DG COMP into a semi-structured interview guide which enabled each interview to be tailored to the specific interviewee. The questions were aimed at enabling interviewees to explain their views on the issue of collective bargaining for self-employed people, and their thoughts on the best potential way of solving the difficulties that this presents in terms of clashes with competition law.

Below we include some key findings and lessons from these interviews.

Key findings

All interviewees recognised the challenges raised by the new and evolving features of self-employment and the inadequacy of existing regulation governing these workers, and particularly platform workers. New technologies are changing contractual relationships and interviewees stressed that labour and competition laws are not sufficiently updated and flexible enough to include these new contracting forms. In this respect there is a general awareness that **changes in the legal framework are needed, but that they should be 'systemic', including taxation, social protection and collective bargaining rules,** to avoid prolonged adaptation and uncertainty.

The interviewees also acknowledged that the imprecise definition of self-employment and challenges relating to the different types of self-employed and the work that they undertake is not a new problem and that national differences affect self-employment and the level of protection provided. The definitions of employed and self-employed differ among Member States and often do not succeed in covering the various types of self-employment and the entrepreneurial nature of some of these. These differences around the EU are the result of national competences in social and labour policies, which affect an EU-level solution of the issues surrounding collective bargaining and competition law, because it has to be applied to employees differently defined in the Member States. In particular, the social partners underlined the limited power of the European Commission in this subject.

All interviewees felt that the need for better working conditions of large numbers and categories of self-employed people, and especially platform workers should be addressed. They also agreed that collective bargaining can be an instrument to achieve this aim. However, there were predictable differences of option between the social partners: the employer associations underlined that bargaining should not be extended to salary in order not to clash with competition law.

On the other hand, some academic experts highlighted that collective bargaining is necessary, but it may not be sufficient to solve the problem of giving more protection to weaker solo self-employed, as fiscal and social protection differences remain too high and union density among platform workers is still not very developed. In their opinion, legal initiatives for a minimum wage, social security coverage and improvements in labour conditions should join an EU initiative for collective bargaining.

In relation to basic social rights, many interviewees felt that the situation of platform workers is only the 'tip of an iceberg' in that many self-employed who are in need of protection and therefore paying attention only to the platform economy would be wrong. Some interviewees noted that despite the lively debate on platform workers, all types of self-employment have a weak and highly dependent component.

Interviewees also felt that there is a lack of adequate statistical information and knowledge about the different types of self-employment. The distinction between self-employed with and without employees indicates that the latter are the large majority (around the 70%) of the total self-employed. The general perception is that platform workers among the interviewees are growing in their number in all the Member States; COLLEEM data is the main source of information to which interviewees referred.[41]

Some of the experts agreed that it is impossible to obtain detailed information on false self-employment, notwithstanding the fact that this phenomenon is widespread in many Member States. The main reason cited for this is that each country has its own legal criteria for defining employees and self-employed and this makes the compilation of comparable and detailed statistics difficult. Data from Labour Force Survey or other surveys do not match all the national criteria and only therefore it is often left to national courts to define "false" or "true" self-employment on a case-by-case basis.

According to some experts, especially labour law experts and representatives of trade unions, among the scenarios that the European Commission would like to consider in order to assess the feasibility of European intervention in this area, the only viable option would be to "make collective bargaining for all the self-employed possible", because, in their view, it is not possible to limit access to collective bargaining and every worker must have access to collective bargaining regardless of their employment status. They also felt that the European Commission would not have to redefine fundamental concepts such as that all the workers have the right to collectively bargaining independently on their the type of their contract, That are already in place when regulating the equilibrium between collective bargaining and competition law. Trade union representatives in particular felt that the Commission must be driven by fundamental rights and the concepts expressed in the Charter of Fundamental Rights.

Moreover, in adopting its decision, experts felt that the European Commission should produce very clear guidelines or give adequate notice so that national competition authorities do not hinder collective bargaining for self-employed and can also help to foster a harmonised approach across EU Member States. At a later stage, the European Commission could think about adopting a Regulation, provided there is wide consensus in Member States. However, the most important step that the European Commission could take, in the view of the experts, is that of providing a clear guideline, without excluding any type of self-employed, in order to facilitate the Court of Justice of the European Union in adopting decisions that can ensure collective bargaining for the solo self-employed.

The employer association representatives interviewed noted that the Commission should simply say that competition law does not hamper collective bargaining by employees and false self-employed and agreements on the labour conditions are generally allowed. At present, the approach of collective bargaining is not universal for all self-employed who are in a weak position and it is impossible to make a logical division between different types of self-employed in a weak position.

Key lessons

On the basis of the responses obtained from interviewees, the following themes emerged:

1. The level of dominance of labour rights in relation to competition rules is a determining factor. The potential conflict of these two basic principles of EU foundations has to be clarified in order to enable the adoption of a consistent and effective initiative. In addition, because they are general principles it is particularly difficult to design their application to limited groups of workers or enterprises.
2. The legal definition of work and its actual application are inadequate in the Member States in terms of being able to fully represent the reality of many solo self-employed. This, on the one hand amplifies the number of false self-employed and insufficient protection for many self-employed, while on the other hand it makes the limitation of competition law and collective bargaining to specific groups of workers difficult;

[41] From COLLEEM data, from 2017 to 2018 adult people who have ever done platform work raised from 9.4% to 11% of the total. . However, in the same period the workers who have a digital platform job as main work decreased while people who have that kind of job as secondary or sporadic work increased. See Urzì Brancati, C., Pesole, A., Fernández-Macías, E. *New evidence on platform workers in Europe. Results from the second COLLEEM survey*, EUR 29958 EN, Publications Office of the European Union, Luxembourg, 2020, JRC118570

3. According to the previous point, national competences on many social and labour policies may limit and differentiate the national effects of an EU initiative on competition. An initiative that is able to effectively coordinate EU and national decision-making levels would have greater effectiveness;
4. The large distance between the opinions of trade unions and employer associations is understandable, but denotes also the implicit political cost of any initiative in this field;
5. The analysis of the potential effects on competition of an initiative for collective bargaining would require, more than in other cases, innovative approaches capable of embracing the effects on the labour market and also on consumers in terms of not resulting in any increase in prices or other disadvantage for consumers;
6. The capacity of collective bargaining in improving working conditions of self-employed is not exclusive and sufficient on its one. Social protection and benefits such as health insurance depend on national policies, as well as activation of collective bargaining, which may take time and differ among countries. The coordination of the initiative on competition with other initiatives for weak self-employed would be necessary in order to achieve the expected goals.

These lessons help the definition and the selection of the policy options of the EU initiative.

- First, these considerations push to adopt a "simple" option, in which national rules concerning definitions of self-employed or collective bargaining can be less intrusive and the administrative burden less heavy; option 1 and option 4 seem to better respond to this criterion.
- Second, the preferences of the main stakeholders are divergent[42]: trade unions generally prefer option 4, while employer associations generally prefer option 1, with minor coverage and market influence. Option 4 seems to be generally preferred by labour lawyers because it introduces less divisions in the labour market and represents better the basic rights of workers.
- Third, options 1 to 3 seem less capable of covering the weakest self-employed requiring support, because although these workers are concentrated in platforms they are distributed across all sectors and occupations.
- Fourth, the control of competition rules seems easier in option 1, where coverage is minor and the possibility of collective bargaining is relatively limited.

Annex 3 contains a full synthesis of the results of these interviews.

2.5. Clustering of countries, based on the mapping

Once the mapping process had been completed, we started work on designing clusters that group the Member States together depending on the type of systems for which they have opted. Creating clusters of systems allowed us to carry out the analysis in the further tasks of this study more effectively (Tasks 2-4), taking each cluster as representative of the Member States within that cluster.

[42] In the interview we have not explicitly submitted the 4 options to the stakeholders, but they had already met DG COMP and knew the contents of the EU initiative.

On the basis of the information contained in the country mapping reports, we populated an Excel spreadsheet with relevant information in the following categories: Factors considered when building the clusters	
Institutional factors	• Extent of presence of collective bargaining framework and institutions (strong, medium, weak) • Strength of social partners (strong, medium, weak) • Extent of government intervention in collective bargaining and labour market regulation (strong, medium, weak)
Overall context	• Rate of self-employment: high, medium, low (in relation to the EU average) • Overall rate and coverage of collective bargaining (high, medium, low) • Rates of non-standard employment: high, medium, low (in relation to the EU average) • Rates of platform work: high, medium, low (in relation to the EU average) • Extent of false self-employment: high, medium, low (in relation to any figures that show EU comparisons)
Legal factors	• National labour law allows collective bargaining for self-employed • National labour law allows collective bargaining for some categories of self-employed • National labour law prohibits collective bargaining for self-employed • National competition law allows collective bargaining for self-employed • National competition law allows collective bargaining for some categories of self-employed • National competition law prohibits collective bargaining for self-employed • Alternative solution to offer protection to self-employed • Definition of self-employment (narrow/wide) • Existence of a third category between self-employed and employees • Definition of employee narrow/wide • Has competition law been enforced against collective bargaining agreements?
Other factors	• Tax and social security schemes that favour self-employment

The excel sheet was then colour-coded in order to uncover patterns in the data. The Excel sheet was sent to the Client in April 2021. On this basis, we built these clusters, which are set out below.

Cluster 1: Legal systems where all solo self-employed are allowed to bargain collectively	Poland
Cluster 2: Legal systems where all self-employed are prevented from collective bargaining	Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, Hungary, Latvia, Lithuania, Luxembourg, Malta, Romania, Slovakia

Cluster 3: Legal systems where (some) self-employed are allowed to bargain collectively, under labour law, on the basis of an economic dependence criterion	Germany, Portugal, Slovenia, Spain, Sweden
Cluster 4: Legal systems where (some) self-employed are allowed to bargain collectively, under labour law, on the basis of the specific sectors they work in and/or on the basis of a specific category they belong to	Austria, France, Greece, Italy, Portugal, Spain
Cluster 5: Legal systems where either (i) national competition law provides an exception to the application of the cartel prohibition so that (some) self-employed can bargain collectively or (ii) national competition authorities have adopted guidelines according to which they will not enforce the cartel prohibition against (some) self-employed under certain conditions	Ireland, Netherlands

2.5.1 Overview of key criteria for the clustering

This section contains an overview of the key characteristics of each country that have informed our clustering. The table above and the paragraphs below reflect discussions with DG COMP about the fine-tuning of this clustering, having received comments through April to August 2021 as well as during the Expert Workshop. The full document that reflects our clustering methodology is available in Annex 5. Please note that some countries have been placed in more than one cluster.

Cluster 1: Poland

This cluster includes countries in which all solo self-employed are allowed by law to bargain collectively according to legal provisions. Poland is the only country in this cluster, based on the fact that Amendments made in 2018 to the Act on Trade Unions introduce a new notion of 'person who performs paid work' (osoba wykonuj ca prac zarobkow), under which self-employed can be included. Thus, there is now a legal framework for collective bargaining for civil law contractors and self-employed.

Cluster 2: Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, Hungary, Latvia, Lithuania, Luxembourg, Malta, Romania, Slovakia

This cluster includes all the countries where the legal system has not foreseen collective bargaining, neither under labour law nor under competition law, including in those where collective bargaining is neither explicitly allowed nor prohibited by law. In these countries, the law states either that all self-employed are prevented from collective bargaining or does not explicitly mention coverage of self-employed.Many of these countries are the newer EU Member States from central and eastern Europe, which have a history of a more rigid labour market.

Belgium: As there is no explicit exemption from competition law nor from labour law, collective bargaining for self-employed should essentially be prohibited under competition law. There is no clear status of regulation regulating collective bargaining for self-employed. Therefore, Belgium is placed in this cluster.

Bulgaria: The legal framework provided by the labour code in Bulgaria states that only employees can be covered by collective agreements. Labour law states that collective agreements can only be signed between employers and employees.

Croatia: Self-employed are not explicitly mentioned in legislation on representativeness of the social partners. Further, as there is no explicit exemption from competition law nor from labour law, collective bargaining for self-employed should therefore be interpreted as prohibited under competition law. Therefore, Croatia is placed in this cluster.

Cyprus: There are no legal provisions that relate specifically to the exclusion or the inclusion of self-employed under collective agreements. In practice, however, labour legislation reflects the main interest of the legislators

in addressing the rights and obligations of employees only, and therefore does not cover self-employed. Therefore, Cyprus is placed in this cluster.

Czechia: Collective bargaining for self-employed is prohibited by competition law in Czechia. The protection of competition on the labour market prevails and bargaining for self-employed is therefore seen as illegal activity and an attempt to distort competition on the labour market.

Denmark: On the basis of a body of case law, there are two classes of freelancers in Denmark – the freelancer considered to be independent (selvstændig freelancer), who cannot be covered by collective agreements, and a freelance wage-earner (freelance lønmodtagere) who can. However, to be in this second category of freelancer, workers must be working under conditions that are similar to employees in a company compared to real self-employment. Even though the case of Denmark is debatable, Denmark was placed in this cluster on the basis of the fact that the concept of the freelance wage-earner would appear to be closer to an employment relationship than it is to being a particular category of self-employment. For specific examples of this, see the Danish country mapping in Annex I.

Estonia: The Estonian Collective Agreements Act defines a collective agreement as a voluntary agreement between employees and an employer. Therefore, the coverage of collective agreements does not apply to self-employed. Further, the Estonian Competition Act stipulates that a sole proprietor or any other person engaged in economic or professional activities are considered undertakings and it is prohibited to conclude agreements between undertakings which have as their object or effect the restriction of competition.

Finland: Self-employed are excluded from collective bargaining under the Finnish Competition Act. Section 2 of the Act states that it "shall not be applied to agreements or arrangements which concern the labour market". However, it applies to "undertakings" which are defined under Section 4 of the Act as "a natural person, one or more private or public legal persons, who engage in economic activity". Consequently, self-employed cannot enter into collective negotiations or conclude collective agreements.

Hungary: The Hungarian Labour Code does not contain any reference to the self-employed, which is interpreted by commentators such as Eurofound as an implicit ban on collective agreements for the self-employed. Self-employed are not regarded as employees: the Hungarian Labour Code takes a binary view on employment, taking into account employees and enterprises, and self-employment falls into the latter category.

Latvia: The Latvian labour code states that the parties to a collective agreement are: "The employer and an employee trade union or authorised representatives of employees if the employees have not formed a trade union." Therefore, self-employed are not covered by collective bargaining. Further, Section 11 of the Latvian anti-trust legislation states that agreements between market participants that have as their objective or effect the hindrance, restriction or distortion of competition in the territory of Latvia, are prohibited and null and void, including agreements regarding the direct or indirect fixing of prices and tariffs, or provisions for their formation, as well as regarding exchange of information relating to prices or conditions of sale. This is interpreted by researchers and experts as excluding the possibility of agreements covering self-employed.

Lithuania: Collective bargaining for self-employed people is not permitted by the Lithuanian Labour Code, which defines an employee as is 'a natural person who is obliged to perform a work function for remuneration under an employment contract with an employer'. Lithuania is therefore placed in this cluster.

Luxembourg: The legal framework for collective bargaining, the law of 30 June 2004, is restricted in its scope of application to employees (Article 1) and no provision is made for the inclusion of freelance or self-employed. Luxembourg is therefore placed in this cluster.

Malta: Labour law does not allow self-employed to bargain collectively: the Employment and Industrial Relations Act (EIRA) regulates situations involving relations between an employer and an employee or a group of employees only, thus excluding self-employed.

Romania: Self-employed are exempt from the regulations of the Romanian Labour Code. Further, according to Art. 3(1) of the Social Dialogue Law, only persons employed under an individual employment contract, civil servants and civil servants with special status under the law, cooperating members and employed farmers have

the right, without any restriction or prior authorisation, to form and/or join a trade union. Since self-employed are not employed under an employment contract, they are not allowed to join a union.

Slovakia: It is not possible to conclude collective agreements in relation to the self-employed, because the Slovakian Act on Collective Bargaining (Act 2/1991) and Act No. 311/2001 on the Labour Code define the conclusion of collective agreements as only for employees. Slovakia is therefore placed in this cluster.

Cluster 3: Germany, Portugal, Slovenia, Spain, Sweden

This cluster includes countries that have used employment legislation to create a category of economically dependent worker who work in an autonomous way but in reality are carrying out the majority of work for one client.

Germany: Labour law (the Collective Agreement Act) provides for a further category between employees and totally independent persons: persons with employee-like status (*arbeitnehmerähnliche Personen*). This covers those freelancers who are economically dependent and usually work exclusively for one client for more than 50% (33% in the media sector) of their income. Employee-like persons can be covered by collective bargaining. They also enjoy specific labour law rights, including annual leave, paid sick leave, maternity protection and data protection. However, they do not enjoy the right to statutory or collectively-agreed minimum wages, nor do they enjoy dismissal protection or protection in the case of transfer of undertaking. Nevertheless, there are some collective agreements covering self-employed journalists doing so.

Further, self-employed homeworkers, under the Homeworkers Protection Act Art 19, can bargain collectively if defined that they work by themselves, with family members or workers/auxiliary workers in their own premises and deliver contracted work to a gangmaster (a person who organises and oversees the work of casual workers) or employer. If there is no relevant collective agreement, or if trade unions only represent a minority of the homeworkers and remuneration is insufficient, the homework commission (Heimarbeitsausschuss) can determine minimum remuneration. However, this provision is not widely used in Germany.

Portugal: By law, the only parties authorised to negotiate collective agreements are companies, employer representatives and trade unions. The law does not explicitly forbid collective bargaining for self-employed people, but since self-employed are rarely allowed to join unions and since trade unions have the exclusive right to negotiate these agreements, this creates a situation that effectively prevents self-employed from collectively bargaining.

However, Article 10 of the Labour creates an economically dependent category of worker, in cases where work is performed by one person for another without legal subordination, and where the provider of work is to be considered to be economically dependent on the beneficiary of the activity. Further, Law No. 101 of 8 September 2009 cites the extension of mandatory minimum wages and collective agreements to economically-dependent workers in the case of home working or handicrafts (regime de trabalho no domicilio).

Slovenia: Under Article 213 of the Employment Relationships Act: 'an economically dependent person is a self-employed person who on the basis of a civil law contract performs work in person, independently and for remuneration for a longer period of time in circumstances of economic dependency and does not employ workers'. Economic dependency is defined as obtaining at least 80% of annual income from the same contracting entity. This category of such workers exists predominantly in the cultural sector, particularly in the fields of journalism, where they work at the premises of the contractor, as well as in the sports, transport and cleaning sectors.

This Act also states that it covers legal protection for these workers in relation to "ensuring payment for contractually-agreed work as comparable to the type, scope and quality of work undertaken, taking into account the collective agreement", which implies that reference should be made to any relevant collective agreement in relation to pay for these workers.

Spain: An economically dependent worker (trabajador autónomo económicamente dependiente – TRADE) is defined by Article 11 of Law 20/2007 of 11 July as a worker who depends economically on one main client, from which they obtain at least 75% of their income. For these workers, legislation permits the negotiation of so-

called “agreements of professional interest” (acuerdos de interés professional - AIP), which are agreed between companies using economically dependent self-employed and unions or associations representing them. These agreements can establish “the conditions for the method, time and place for undertaking the said activity” as well as other general conditions relating to the contract. They must, however, “observe the limits and conditions established in the legislation in the defence of competition”. Due to legal provisions governing riders working for platforms, Spain is also placed in cluster 4 below.

Sweden: Some solo self-employed are classified as ‘dependent contractors’ under Section 1(2) of the 1976 Co-determination Act, as a worker ‘who works for another and at that time is not employed by them, but has a position that in essentials is the same as an employee’s’. They have collective rights and the unions can conclude collective agreements for them. This means that these dependent contractors have the same rights as employees under the Act: the right to organise, to negotiate and to strike and that the social partners can conclude collective agreements for them.

Dependent contractors are categorised as those who perform activities for someone as a contractor but who are dependent on one principal. The dependent contractor therefore differs from normal contractors who are independent in relation to their principal and might be considered to be genuinely self-employed.

Cluster 4: Austria, France, Greece, Italy, Portugal, Spain

In this cluster, countries allow collective bargaining for certain sectors of the economy, usually journalists and media workers, those working in the arts sector and those in the platform economy. In the case of those working in the arts sector, the aim is to protect these workers, who may work for one employer for an extended period of time but then will move onto another employer when that engagement ends. It also includes all the countries where labour law has clearly stated that (some) self-employed working in a specific sector are entitled to bargain collectively and/or where a specific category regardless of the sector has been defined by law. Some of the countries in this cluster are also in other clusters, as this sectoral dimension is often the logical outcome of other solutions in other clusters, such as enabling collective bargaining for employee-like workers or dependent contractors.

Austria: In principle, the Labour Constitution Act sees no role for collective bargaining in setting term and conditions for self-employed or those employed under contracts for service (*Werkverträge*). There are, however, two exceptions, covering permanent freelance journalists working for media companies and home workers, where the law allows collective agreements to be negotiated and signed. These are self-employed who are represented by the Austrian trade union confederation, rather than being members of the Austrian Chamber of Commerce, as would usually be mandatory for self-employed people.

France: French legislation on collective bargaining does not provide for the signing of collective agreements for the self-employed. Under Article L.2132-2 of the French Labour Code, employee organisations constituted as professional trade unions are the only bodies allowed to negotiate collective labour agreements. Further, the competition rules contained in Articles L.420-1 of the Commercial Code seem to exclude collective agreements by organisations of self-employed.

However, there are collective agreements for groups of workers who in many other countries would be considered self-employed but who, in the French employment legislation system, are considered employees. These are mainly independent journalists, and those who work in the creative arts (actors, musicians and other performing artists) and other categories such as sales representatives (French Labour Code art. L-7313-1) and homeworkers. Most recently, new legislation, dating from April 2021, sets out a framework for collective bargaining between self-employed working through platforms and the platform in the delivery and personal transport sectors.

Greece: The right to collective bargaining of dependent self-employed is recognised by Greek Law: under Article 1 of Law 1876/1990 concerning free collective bargaining, the right to bargaining also applies to persons who, ‘while not bound by a dependent employment relationship, perform their work in a situation of dependence and require protection similar to that enjoyed by employees’. However, this law also states that self-employed

are not allowed to join the trade unions that are entitled to conclude the collective agreements. Therefore, there are currently no examples of collective agreements covering these workers.

However, under the new law 4808/2021, published in June 2021, there is a presumption of an employment relationship between platforms and the service provider working for the platform, unless the service provider can: use subcontractors or substitutes to provide the undertaken services; opt among various projects or has the ability to unilaterally set the maximum number of projects that will be undertaken; provide its services to third parties (including competitors of the platform); and determine the timeframe of services adapted to his/her personal needs and not to the interests of the platform. Article 70 of this law provides for the right of trade unions to negotiate collectively and conclude collective agreements on behalf of platform workers. In addition, two specifically designated groups of persons exist who are legally deemed to be employees, irrespective of the given features of the work they perform, namely tourist guides and technicians in cinema and broadcasting (see Article 37 of the Greek Act 1545/1985, Article 2(1) of the Greek Act 358/1976 and Article 6(5) of the Greek Act 1597/1986).

Italy: Persons working under a semi-subordinate contract Co.Co.Co. – Continuous and Coordinated Contractual relationship – are seen as a third category of worker, between employee and self-employed worker and seem have access to collective bargaining. Most recently, Law Decree No 101 of 2019, converted by Law No 128 of 2019, introduced a framework to ensure minimum levels of protection for platform riders. Food delivery riders in Italy are classified as semi-subordinated workers with a Co.Co.Co contract . .The terms and conditions of employment of food delivery riders have since 2018 been targeted by a government initiative aimed at providing protections to this category of workers through an ad hoc collective agreement or the introduction of a specific legislative framework. A specific legislative framework was approved in September 2019 (Law no. 101/2019) introducing a compulsory insurance system (INAIL) in the case of job-related injuries, a sickness allowance paid by the company that owns the platform (being the employer of the riders), and a new definition of compensation levels based on a mix of piecework and hourly pay. Accordingly, riders can be paid based on the number of deliveries, as long as this does not represent the prevalent payment mode. An hourly basic salary will be recognised for all riders for each hour worked during which the worker accepts at least one call. A collective agreement is allowed to define diversified incentive and remuneration schemes.

Portugal: In August 2018, the Portuguese Parliament approved legislation introducing a specific regulation for the transport of passengers by platform workers (TVDE – Individual Paid Transport of Passengers with Unmarked Vehicles). It created the legal figure of the TVDE-operator as the sole entity that is entitled to hire TVDE-drivers, thus functioning as a type of mandatory mediator between the electronic platforms and the drivers. The electronic platform is not allowed to make a contract with the driver and it is the TVDE-operator who hires the driver.

The law obliges the drivers to have a written contract with a TVDE-operator and obliges the TVDE-operators to comply with all legal regulations of the activity, “including those resulting from labour legislation, health and safety at work and social security”. The TVDE-operator may hire the driver as an independent worker or as an employee, but the law refers explicitly to the “presumption of an employment relationship” in Article 12 of the Portuguese Labour Code, thus strongly reinforcing the assumption that the driver is a dependent worker and protecting him/her under the law. Therefore, Portugal is placed in this cluster as well as cluster 3 above.

Spain: The “Riders Act”, adopted on 11 May 2021 sets out a presumption that all platform workers working as riders are employees. Therefore, platforms will be obliged to hire these workers on the basis of employment contracts, unless they can prove that they are genuinely self-employed. Therefore, Spain is placed in this cluster, in addition to cluster 3 above.

Cluster 5: Ireland, the Netherlands

In this cluster, countries have turned to competition law to give specific self-employed enhanced employment rights, in the form of exception to the application of national competition legislation and/or non-priority enforcement.

Ireland: The enactment of the Competition (Amendment) Act 2017 gives certain categories of self-employed the right to enter into collective agreements. This Act provides a specific exception to the application of section 4 of the 2002 Competition Act (which prohibits anti-competitive agreements, decisions and concerted practices, and which mirrors Article 101 of the TFEU) for self-employed voice-over actors, session musicians and freelance journalists and provides a mechanism which could allow, in strictly defined circumstances, other groups of self-employed to engage in collective bargaining in the future.

It should be noted, however, that no collective agreements have as yet been concluded under this Act. Nevertheless, the existence of this mechanism confirms its place in this cluster.

Netherlands: The Dutch Competition Authority has adopted guidelines interpreting the Dutch Competition Act and setting priorities in relation to price arrangements between solo self-employed. In that framework the ACM states that it will not impose any fines on arrangements between and with the self-employed that aim to set a minimum rate for the self-employed that is not higher than necessary for safeguarding the subsistence level.

2.6. Results of the survey of self-employed people in selected EU Member States

The data collection for Task 1 was supplemented by an online survey of self-employed that ran from 25 February 2021 until 17 March 2021. The survey was carried out in cooperation with the survey house Dynata (formerly Survey Sampling International) in eight countries, based on completed questionnaires for approximately 300 self-employed in Sweden and 500 each in Austria, France, Germany, Italy, the Netherlands, Poland and Spain. A total of 3,819 self-employed responded to the survey.

In terms of the sample, the vast majority of sample for this project was sourced via first party Dynata panels. Dynata has a large number of such proprietary panels but for these study, two main types of panel were used:

1) Traditional consumer panels. Dynata recruits via a range of online and affiliate sources for a research-only approach with these respondents, there is a joining survey and double opt in email process for validation. There is a direct incentive points scheme for participation: once a redemption point is reached the panelists are eligible to receive vouchers. One such example in the UK is www.valuedopinions.co.uk.

2) Loyalty panels. Dynata works with existing loyalty programmes such as BA Executive Club and Virgin Atlantic Flying Club. Members of these schemes will periodically be asked if they want to join a research panel which will ultimately boost the rewards they see in that scheme. Dynata has a pre-agreed onboarding process for those willing to be recruited as first party panelists, again with a joining survey and email validation process and again with a direct incentive points scheme but when they redeem they do so in the terms of the currency of the loyalty scheme to which they belong.

Respondents have been recruited from both panel types in this project. Any individual can apply to join these panels by completing a joint survey and going through a double opt-in email process to validate their personal details. In three markets (Austria, Netherlands and Sweden) Dynata also worked with trusted local panel partners to boost the numbers achieved but the rest were from Dynata's main panels alone.

Invitations including e-mails, phone alerts, banners and messaging on panel community sites were used to recruit respondents for this survey. The recruitment process screened out individuals who did not class themselves as self-employed. To achieve a balanced sample, potential respondents were asked questions on

age, gender, occupation, education level, and sector of work. Checks were also done to identify Illogical or inconsistent responding, with such respondents removed from the final sample.

The questionnaire was translated into the national languages by Dynata and was accessible both through a website and on mobile phones. Annex 4 contains the full analysis of the results of the survey.

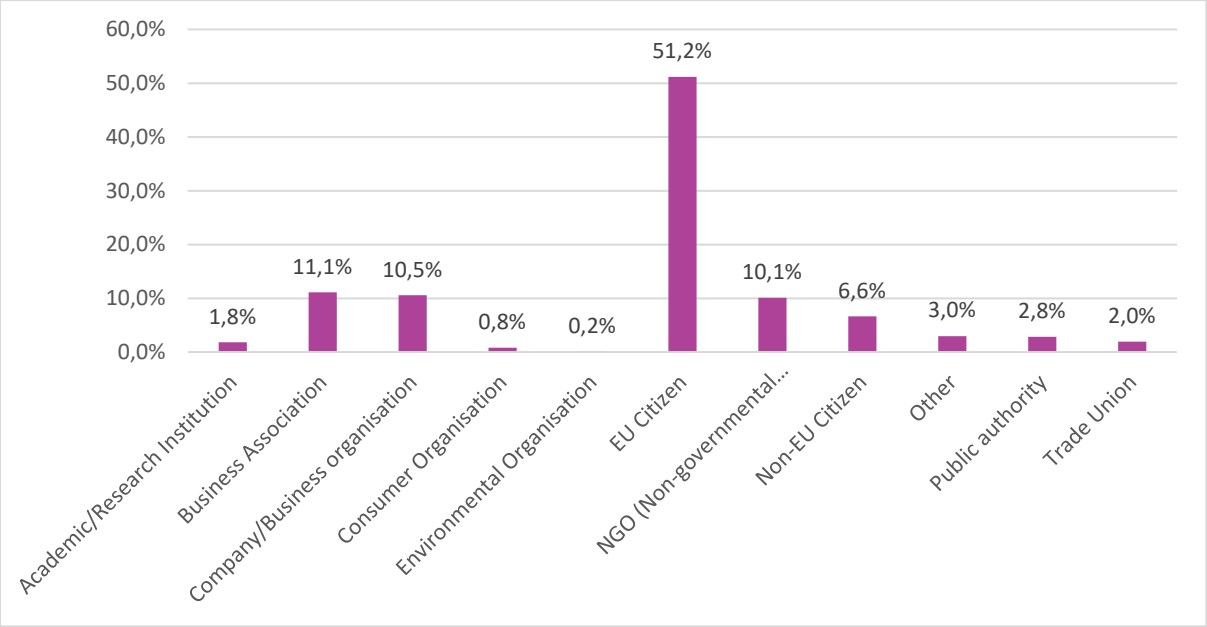
2.7. Results of the public consultation on the Digital Services Act (DSA) package

In 2020 the Commission ran a 14-week public consultation in the context of the Digital Services Act (DSA) package, in order to identify issues related to the environment of digital services and online platforms that might require EU intervention. In particular, the section V (i.e.,"How to address challenges around the situation of self-employed individuals offering services through online platforms?") of the consultation was dedicated to the situation of self-employed platform workers. The results of this specific section part of the wider consultation have been analysed in the context of this assignment and the main findings are presented below.

A total of 1,280 individuals took part in the consultation. Respondents came from all Member States, with the highest share coming from Germany (18%), France (16%), and Belgium (14%). Internationally, the highest share of respondents were from the UK (20%) and the US (5%). Due to differences in the questions asked, sample size and the countries covered, the findings from the consultation are not directly comparable to the self-employment survey findings presented in a separate annex. However, the consultation does provide insights into the working conditions and collective bargaining rights of individuals providing services through online platforms, which are summarised below.

The figure below provides an overview of the type of respondents that answered to the consultation, showing that around half of the respondents provided their contributions as EU citizens, while only around one out of ten respondents were companies or business organisations. Among the EU citizens answering to the consultation, only 15% of them reported to be self-employed and offering services through an online platform. Among companies or business organisations responding to the survey, almost two thirds of them (64%) are large companies (more than 250 employees), 16% are micro-companies (less than 10 employees) and only 10% are either small (less than 50 employees) or medium (less than 250 employees) size companies.

Figure 8: Type of respondents to the DSA public consultation

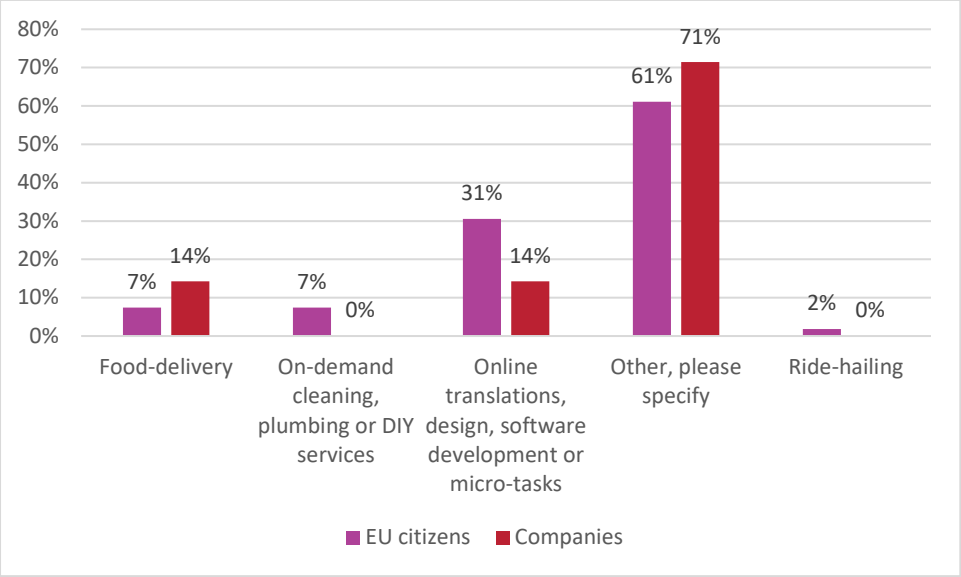


Source: Open Public Consultation on the Digital Service Act Package (European Commission), N=1280

A large majority of respondents agreed that there is a need to consider dedicated regulatory rules to address any negative social and economic effects of the gatekeeper role exercised by large online platform over the whole platform ecosystems.[43] Figure 2 below provides an overview of the answers provided by EU citizens and by companies or business organisations, showing that EU citizens generally tend to agree more than companies that there is a need for a specific regulatory framework for large online platforms.

The figure below provides an overview of the types of services offered through platforms by citizens or companies answering to the consultation. While the majority of respondents selected the 'other, please specify' option, almost one third of EU citizens mentioned that they offer services such as online translations, design, software development or micro-tasks. Among those reporting that they provide other types of services than those listed in the answer options, a large majority of respondents indicated that they offer training opportunities, tutorials, lectures and other education-related activities in different fields (music, computer services or internet security, yoga and well-being, etc.).

Figure 9: Type of services offered through platforms, by citizens and companies



Source: Open Public Consultation on the Digital Service Act Package (European Commission), N=115

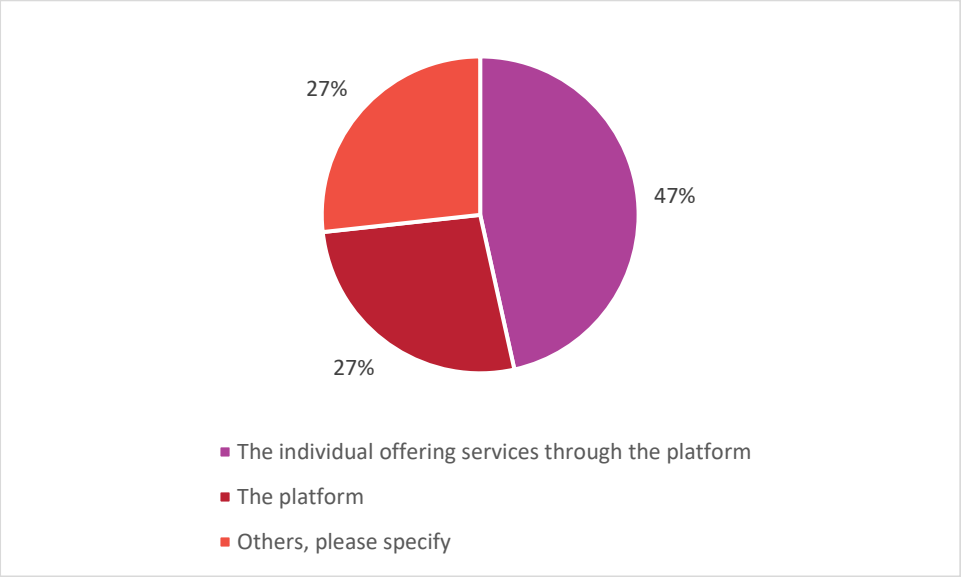
When asked whether the respondents had a contractual relationship with the final customer, slightly more than half of the citizens reported that they do not have any contractual relationship (55%). More than half of the companies' representatives reported instead that they have a contractual relationship with the final customers (60%). Moreover, nearly half of the citizens answering to the consultation reported that they receive guidelines from the platforms on how to offer their services (48%), while only three company representatives answered to this question and all of them reported that they receive guidelines from the platforms. When asked to specify which type of guidelines they receive, the citizens and companies mentioned that these are mainly technical directives or the platforms' terms and conditions. Two thirds of the companies answering to the consultation also reported that their platforms do not own any of the assets used by the individuals offering the services. Moreover, only 8 company representatives provided an estimation of the share of service providers offering services through their platforms that are self-employed individuals. Almost two thirds of them reported that over 75% of the service providers offering services through the platforms are self-employed individuals.

The figure below provides an overview of the responses provided by the companies' representatives on who is responsible for setting up the prices paid by costumers for the services offered through the platforms. Almost

[43] Around 90% of respondents indicated that they either agree (75%) or agree to a certain extent (15%) that a regulatory framework for large online platform is needed.

half of the companies responding to the consultation reported that the prices paid by the customers for the services offered are set by the individuals offering the services through the platform. Among those that selected the 'other, please specify' option, most of these respondents work in the logistics sector and reported that the price is set up at the point of the delivery, based on volume, weight and shipping areas.

Figure 10: Responsibility for setting up the prices of services offered through platforms



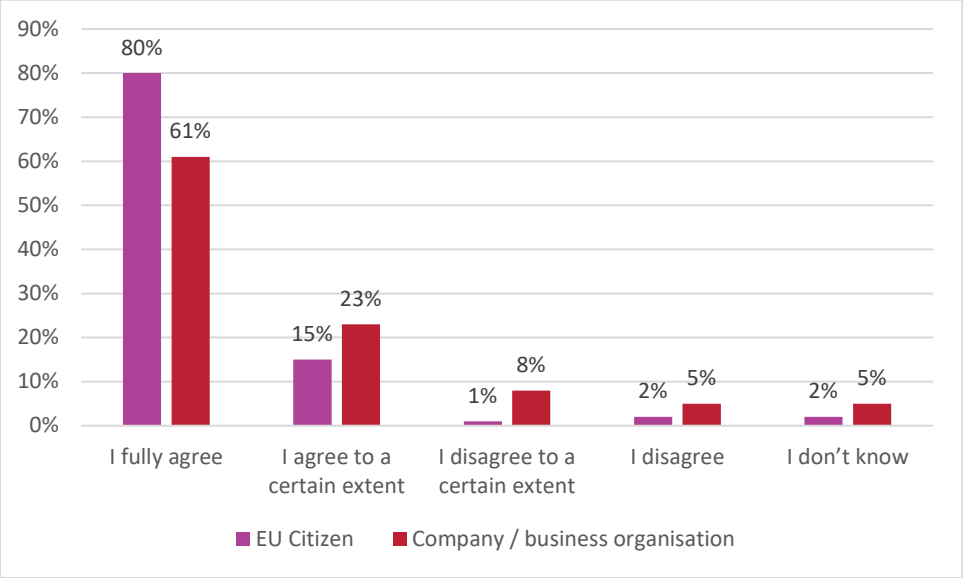
Source: Open Public Consultation on the Digital Service Act Package (European Commission), N=15

Respondents were also asked to explain their role in relation to setting up the prices paid by costumers or how their remunerations are established for the services offered through the platforms. However, only a few respondents provided an answer to this open-ended question: a couple of them mentioned that the remuneration is not established through the platform but through the negotiations between the customers and providers. Other respondents offering services in the field of online translations, design or software developments added that the remuneration is calculated as a percentage of the price paid by the customers or that the prices are set by the individuals, but a commission is paid to the platform.

Only a few respondents indicated the potential risks and responsibilities that they bear in case of non-performance of the service or unsatisfactory performance. Two respondents mentioned that they risk being blocked or excluded from the platforms, while a few respondents mentioned the loss of reputation, the contractual liability or liability for negligence. Finally, only one respondent reported that the risk relates to be in a disadvantaged position for the allocation of working shifts.

Only 10 companies' representatives answered to the survey question asking about the existence of any measure aimed at facilitating the opportunities for individuals offering services through the platforms to organise themselves. In this context, six out of ten respondents mentioned that they do not have measures in place to enable individuals providing services through their platforms to contact each other and organise themselves collectively.

Figure 11: Do you believe that in order to address any negative societal and economic effects of the gatekeeper role that large online platform companies exercise over whole platform ecosystems, there is a need to consider dedicated regulatory rules?, by type of respondent



Source: Open Public Consultation on the Digital Service Act Package (European Commission), N=370

When asked whether the regulatory oversight of platforms should be organised at EU or national level, the majority of respondents indicated that this should be organised at both levels (63%), while around one third of respondents indicated that it should be organised only at the EU level (31%).

Through the consultation, it has also been possible to collect the feedback of respondents on the suitability of different policy options addressing market issues arising in online platforms ecosystems. This question was mainly aimed at assessing to what extent the proposal for a New Competition Tool might contribute to address structural competition problems. The table below shows that around half of respondents do not believe that the current competition rules are enough to address issues raised in the digital market, while the most suitable solutions for respondents relate to the possibility to develop an additional regulatory framework imposing obligations and prohibitions that are generally applicable to all large online platforms with gatekeeper power. The second most effective solution for respondents relates to the possibility to develop an additional regulatory framework allowing for the possibility to impose tailored remedies on individual large online platforms with gatekeeper power, on a case-by-case basis.

The results are similar if we specifically look at the feedback provided by companies and EU citizens. In particular, 66% of EU citizens and 60% of companies believe that option 2 could be either very or most effective, while 62% of EU citizens and 57% of companies consider option 3 to be either very or most effective. Furthermore, option 4 seems to be more suitable for EU citizens than for companies, as deemed by 63% of EU citizens and only by 38% of companies as very or most effective. Finally, the majority of EU citizens also consider that the current competitions rules are not enough effective to address issues raised in the digital market (61%), while only 21% of companies reported that these rules are not enough effective.

Table 2: Suitability of each policy option to address market issues arising in online platform ecosystems

	1. Current competition rules are enough to address issues raised in digital markets	2. There is a need for an additional regulatory framework imposing obligations and prohibitions that are generally applicable to all large online platforms with gatekeeper power	3.There is a need for an additional regulatory framework allowing for the possibility to impose tailored remedies on individual large online platforms with gatekeeper power, on a case-by-case basis	4. There is a need for a New Competition Tool allowing to address structural risks and lack of competition in (digital) markets on a case-by-case basis.
Not effective	**52%**	11%	10%	12%
Somewhat effective	29%	9%	8%	7%
Sufficiently effective	4%	6%	7%	9%
Very Effective	3%	20%	21%	20%
Most effective	4%	**44%**	**43%**	**39%**
Not applicable / No relevant experience or knowledge	8%	10%	11%	13%

Source: Open Public Consultation on the Digital Service Act Package (European Commission), N=471

Only a few respondents answered to the consultation question asking whether they can collectively negotiate vis-à-vis the platform(s) their remuneration or other contractual conditions. [44] 88% of respondents reported that it is not possible for them to negotiate their remuneration or contractual conditions with platforms.

As shown in Table 3, almost half of respondents (44%), felt that substantial improvements were needed to ensure that individuals providing services through online platforms could organise themselves for collective purposes. Over a third also noted that substantial improvements were needed with regard to transparency of remuneration (44%), measures to tackle non-payment (42%) and earnings of individuals offering service via online platforms (34%). Over a quarter felt that substantial improvements were needed in terms of flexibility to choose when and/or where to provide services.

Table 3: Areas in which the situation of individuals providing services through platforms would need further improvements

Working condition	Percentage stating that substantial improvement is needed
Ensuring that individuals can organise themselves for collective purposes	44%
Transparency on remuneration	42%
Measures to tackle non-payment of remuneration	39%
Earnings	34%

[44] A total of 84 individuals responded to this question.

Flexibility of choosing when and /or where to provide services	26%

Source: Open Public Consultation on the Digital Service Act Package (European Commission), N=496

As shown in Table 4, EU citizens generally consider that there is a more substantial need for improving the working conditions of individuals providing services through online platforms than the companies that replied to the consultation. In particular, half of the EU citizens responding to the consultation consider that substantial improvements are needed to ensure that individuals can organise themselves for collective purposes.

Table 4: Areas in which the situation of individuals providing services through platforms would need further improvements, by type of respondent

Working condition	**Percentage stating that substantial improvement is needed**	
	EU citizens	**Companies**
Ensuring that individuals can organise themselves for collective purposes	51%	27%
Transparency on remuneration	46%	18%
Measures to tackle non-payment of remuneration	48%	18%
Earnings	41%	18%
Flexibility of choosing when and /or where to provide services	27%	9%

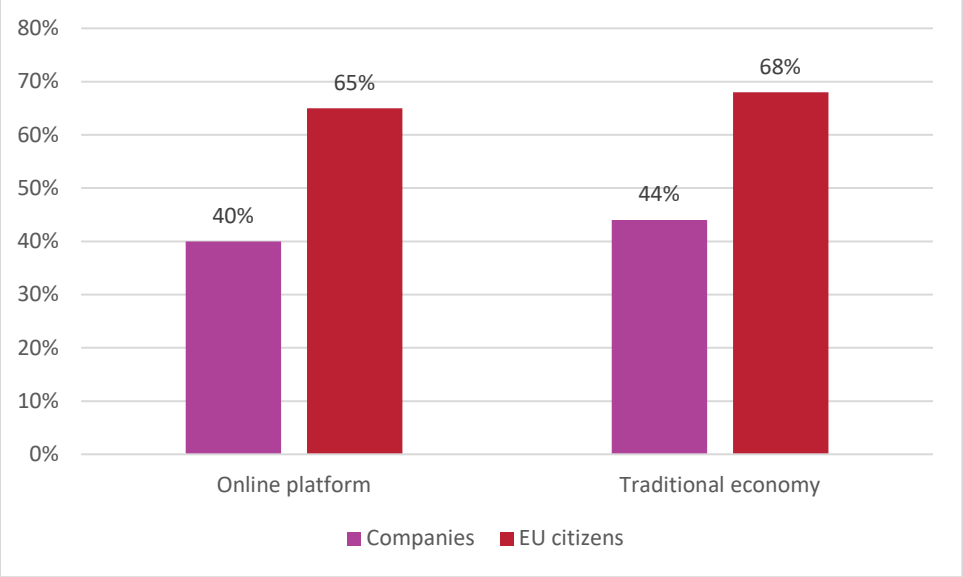
Source: Open Public Consultation on the Digital Service Act Package (European Commission), N=109

When asked to explain more in detail the issues that they experience or perceive, the EU citizens reported that these mostly relate to the lack of social security and protection for self-employed individuals offering services through platforms, but also the lack of adequate remuneration.

Respondents were also asked whether the possibility to negotiate collectively would help to improve the situation of individuals offering services through online platforms and in the traditional economy. Respondents indicated that the possibility to collectively negotiate would represent a significant improvement for individuals offering services both in the online (66%) and offline (68%) economy. The need to create harmonized rules across Member States to ensure a level playing field among platforms was also highlighted in feedback, along with the need for this to be achieved without endangering competitiveness and whilst improving working conditions for platform workers.

Figure 2.7.5 provides an overview of the responses to this question provided by EU citizens and companies, showing that EU citizens tend to agree more than companies that collective negotiations might improve the situation of individuals offering services through online platforms and in the traditional economy.

Figure 12: Share of respondents reporting that the possibility to negotiate collectively might help improve the situation of individuals offering services through online platforms and in the traditional economy, by type of respondent



Source: Open Public Consultation on the Digital Service Act Package (European Commission), N=268

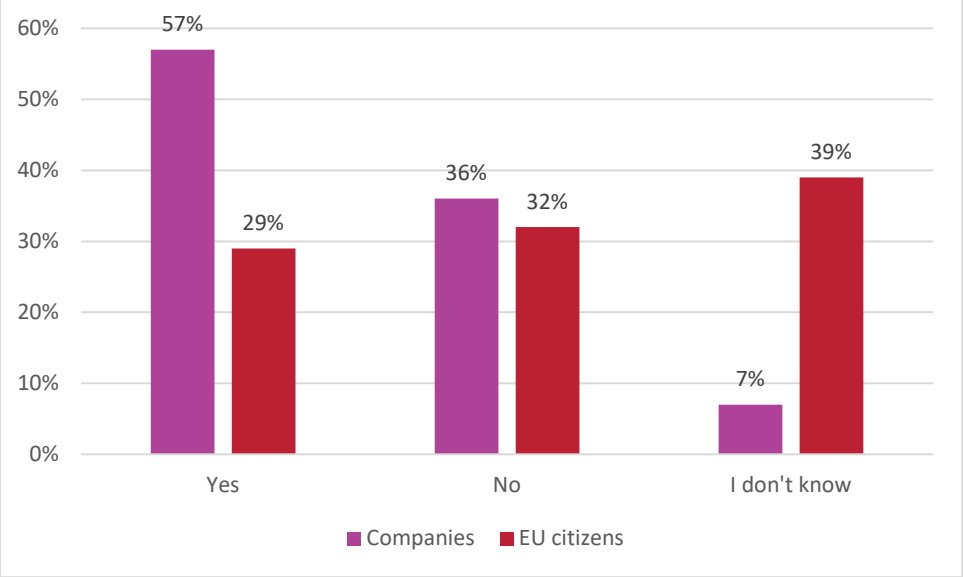
Respondents were also asked to indicate the main obstacles for improving the situation of individuals providing services through platforms. A few citizens answering to the consultation reported that these obstacles mainly refer to regulatory or legal frameworks being too rigid and not allowing enough transparency. Moreover, another couple of citizens mentioned the lack of clarity in relation to taxation, but also the lack of forms of collective organisation and representation.

According to the citizens responding to the consultation, the areas considered as most important to enable such collective negotiations are logistics, delivery and driving services, but also intellectual works as journalism and translations. A few respondents also pointed out that all the areas where collective agreements do not exist shall be considered as most important to enable collective negotiations.

A few citizens also mentioned that the main obstacles preventing such negotiations mainly relate to the lack of collective organisation and representation, also because trade unions are considered by them as not enough representative of the interests of self-employers. One citizen also mentioned that the existence of high minimum wages makes collective negotiations less necessary. Another obstacle mentioned by a couple of citizens relates to the specific characteristics of the free market economy, since collective negotiations would undermine the principle of competitions and free entrepreneurship.

Around 40% of respondents think that individuals providing services in the traditional economy face similar issues as individuals offering services through platforms, while around a third of them (30%) do not know whether individuals working in the traditional economy or through online platforms face similar issues. Figure 4 provides an overview of the share of EU citizens and companies believing that individuals working in the traditional economy or through platforms face similar issues.

Figure 12: Do you think individuals providing services in the 'offline/traditional' economy face similar issues as individuals offering services through platforms?, by type of respondent



Source: Open Public Consultation on the Digital Service Act Package (European Commission), N=117

2.8. Results of the public consultation on the Inception Impact Assessment regarding Collective bargaining agreements for self-employed

In January 2021 the Commission ran a 4-week public consultation on the Inception Impact Assessment of Collective bargaining agreements for self-employed – scope of application of article 101 TFEU (IIA consultation).

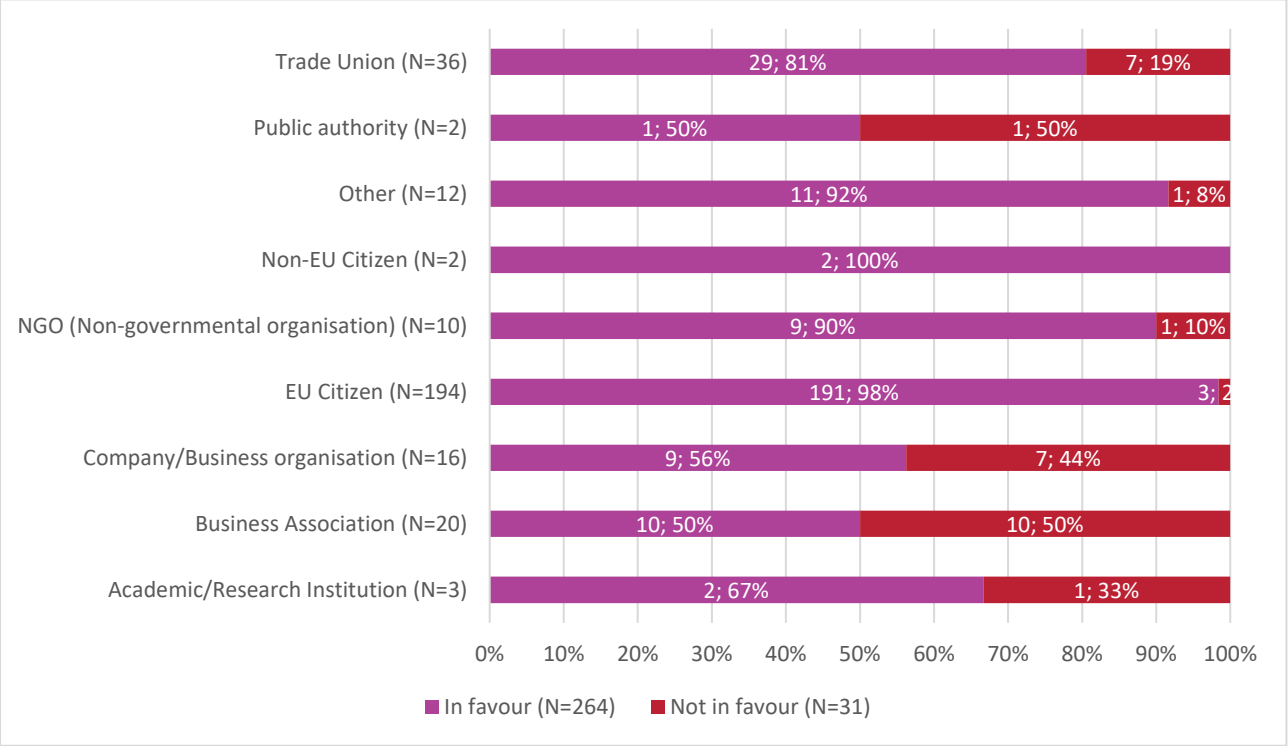
A total of 309 respondents provided inputs to the Initiative of the European Commission, Direction General Competition Collective Bargaining for Self-Employed. However, 6 entries were not considered for this analysis, as representing duplicates, hence the final number of responses considered was 303. [45] Of these, the majority were EU citizens (196), followed by Trade Unions (37), Business Associations (21), Company/Business organisations (16). NGOs (12), Academic Research Institutions (3), Non EU-citizens (2), Public Authorities (2) and others (14). It should be noted that the majority of the respondents are from Spain (55,3%), followed by France and Germany (6,9%), and Belgium (6,3%). Moreover, it is important to highlight that more than half of the respondents are from representatives of the translator/interpreter category, which poses some issues to the actual representativeness of these data.

The analysis of the survey responses to the IIA consultation shows that the large majority of respondents are in favour of the initiative (87%), while only 31 respondents specifically reported that they were not in favour of the initiative (10%). 8 respondents have not specifically indicated if they were in favour or not of the initiative, by pointing it out that more clarifications would be needed in relation to the application of the proposal and that the impact assessment questions would need to take into account also other aspects (i.e., current application of EU competition laws in Member States, downside asymmetry of income and job availability risks, etc.).

[45] Our review of the feedback provided to the consultation showed that these 6 responses were either submitted by the same respondent twice or submitted by different respondents of the same organisation, but both providing the exact same feedback.

Figure 2.8.1 below provides an overview of the type of respondents that were in favour or not of the initiative. The figure shows that the large majority of EU citizens answering to the consultation were in favour of the initiative. However, it needs to be noted here again that the large number of responses received by representatives of the translator/interpreter category had a strong impact on this result and on the overall representativeness of the data sample. Nonetheless, it is also interesting to note how business association respondents are equally divided on the topic, as half of them were in favour and the other half against the initiative. Finally, around 80% of trade union representatives reported to be in favour of the initiative.

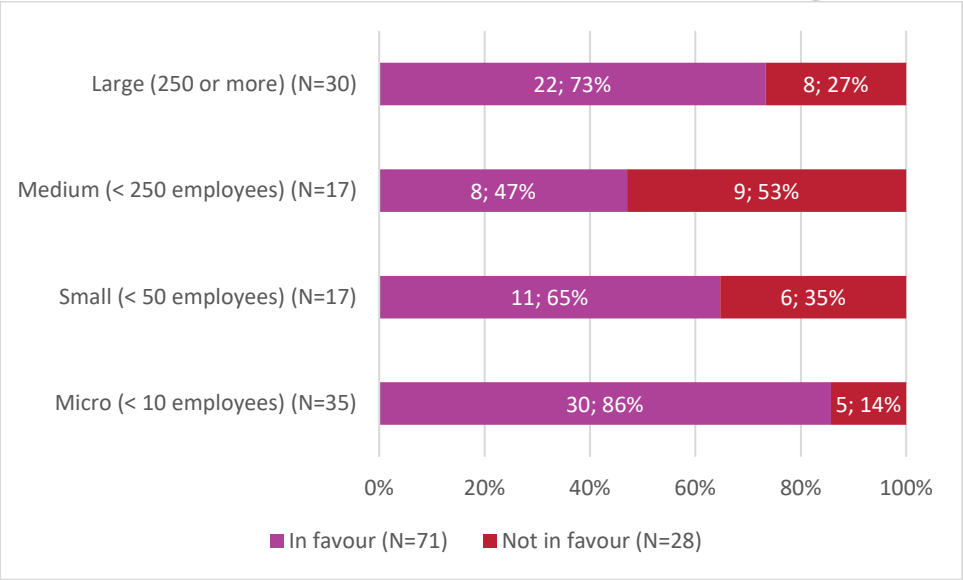
Figure 13: Respondents in favour or not of the initiative, by type of respondent



Source: Public consultation on the Inception Impact Assessment of Collective bargaining agreements for self-employed (European Commission), N=295

The figure below illustrates the number and share of respondents that were in favour or not of the initiative, broken down by the size of the organisations where they work. The results show that medium sized businesses or organisations tend to be slightly less in favour of the initiative, while the majority of respondents in large, small and micro businesses and organisations tend to be more in favour of the initiative.

Figure 14: Respondents in favour or not of the initiative, by size of business



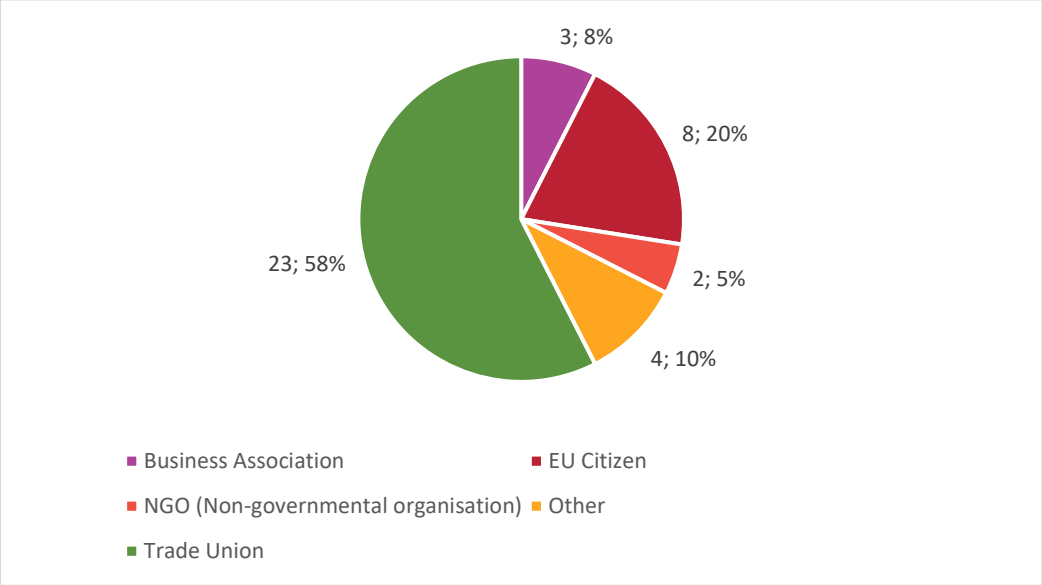
Source: Public consultation on the Inception Impact Assessment of Collective bargaining agreements for self-employed (European Commission), N=99

Only a limited number of respondents in favour of the initiative specifically indicated a preference towards one of the four proposed options.[46] Among the respondents in favour of the initiative, our analysis shows that the majority of them (85%) chose option 4, "All solo self-employed providing their own labour through digital labour platforms or to professional customers of any size", as the most complete and preferred one. Furthermore, 6% of those expressing a preference toward a specific option reported that option 1, "all solo self-employed providing their own labour through digital labour platforms" would the preferred and more viable policy solution. Finally, options 2 and 3 received one preference each, and only two respondents provided multiple preferences: one of them reported that the preferred ones would be options 3 and 4, while the other one mentioned that either option 2, 3 or 4 would be the preferred one.

Figure 15 provides an overview of the type of respondents indicating a preference toward option 4, the most popular one among respondents. The figure shows that more than half of the preferences for this option were received by respondents working in trade unions (58%), followed by EU citizens (20%) and other type of respondents (10%). Finally, the geographical comparison of the respondents choosing option 4 as the preferred one shows that the majority of them were from Spain (9), Finland (6) and Denmark (5), followed by Belgium and Germany (4).

[46] 46 respondents in total and 18% of the respondents that were in favour of the initiative.

Figure 15: Type of respondents preferring Option 4



Source: Public consultation on the Inception Impact Assessment of Collective bargaining agreements for self-employed (European Commission), N=40

The ones not in favour of the EU initiatives consider the initiative going against EU competition laws and weakening national industrial relations systems, and consider collective bargaining for self-employed, in particular platform workers, detrimental of the competition and potentially harmful for consumers.

2.9. Assisting the contracting authority with the Open Public Consultation

The European Commission published the Open Public Consultation (OPC) on the EU survey tool on 5 March 2021 and closed it on 31 May 2021. A press release was issued to publicise the survey[47]. 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-level stakeholders was developed with DG COMP.

This strategy included 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 people, as well as other organisations with expertise in the field of platform work and collective bargaining.

The strategy was implemented in three phases and around 200 dissemination emails were sent out:

- **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. In addition, our 27 country experts recontacted their national-level interviewees, encouraging them to consider completing the OPC and to disseminate it further to their networks. DG COMP also agreed to disseminate the OPC through its own internal networks and mailing lists.
- **Phase 2**: Different types of national organisations across all 27 Member States and sectors were directly contacted on 23 March 2021.

[47] 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

- **Phase 3**: Bridging the stakeholder gaps based on the preliminary analysis and focusing on Member States/sectors which are underrepresented. These additional emails were sent out at the end of April/beginning of May.

Key findings

The public consultation received 267 responses. However, all responses show an unbalanced geographical distribution, with two countries (Germany and Spain) covering over 50% of responses. 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.

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%).

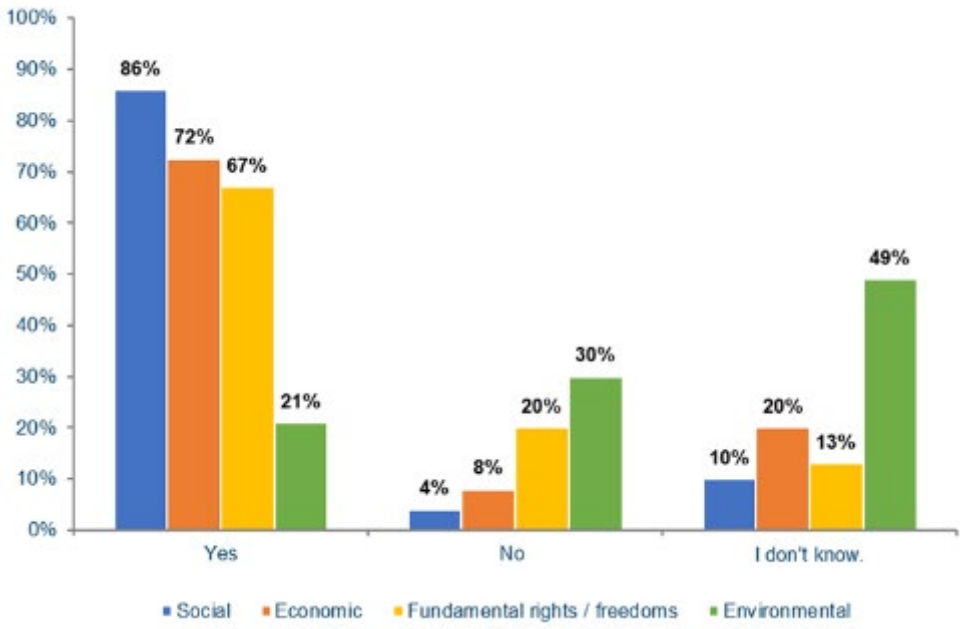
Almost half of respondents (50%) did not provide any answer to the question on how commonly collective bargaining agreements also covered the solo self-employed in their respective country. Having in mind that around 45% said that it was not very common, the overall conclusion seems to be that indeed the collective bargaining mechanism for the solo-self-employed is not a commonality in represented Member States.

When collective agreements do cover solo self-employed, they mostly cover payment (29 responses, 21%), and holiday pay (20 responses, 14%). Artists and other professionals in the cultural sector are the types of worker that are commonly covered by collective bargaining agreements. Not allowed under EU and/or national competition law (62 responses) and no collective agreements covering this type of work (43 responses) were the most commonly selected reasons why solo self-employed could not benefit from collective bargaining agreements

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 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. The figure below summarises this.

Figure 16 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?



Lessons learnt

- Respondents expected that the initiative would produce positive or very positive social, economic and environmental impacts across all four categories of the self-employed.
- In terms of social impacts, they expected **improved working conditions for solo self-employed** and **better social protection for solo self-employed.**
- In terms of economic impacts, **higher consumer trust in platform service providers** and **general improvement in platform service providers' reputation** would likely result from this initiative.
- **Fair and decent working conditions** and **reinforced right to collective bargaining** are positive impacts on fundamental rights that respondents thought would result from this initiative.

A full analysis of the OPC results is available in Annex 6.

2.10. Expert Workshop

In accordance with the terms of reference for this study, we delivered an online expert workshop on 11 June. This workshop provided the opportunity for our team, the Commission and external experts to review the findings of the interim report. The aim was to enable us to draw out the key conclusions from our study and to formulate recommendations.

This expert workshop brought together labour law, competition law and economist experts in order to discuss the preliminary results of the study to support the impact assessment of a possible EU initiative to the application of competition rules to collective bargaining by self-employed. It was an opportunity for the researchers and the colleagues from DG COMP to hear feedback on the progress of the study, as set out in the interim report, and to gather views on the methodology to be used for the impact assessment part of the study. Due to ongoing COVID-19 restrictions, the workshop was held online on 11 June 2021. The workshop was attended by a total of six external experts, in addition to representatives from the European Commission, and the Ecorys consortium that is undertaking the study.

Two main rounds of discussion were held. The first round of discussions mainly focused on the literature review, interviews, surveys, and clustering proposal. The main points were as follows:

- **Inclusion of the views of competition authorities at national level.** Experts were assured that the national mapping stage had included interviews with experts at national level and that DG COMP is also holding discussions with national competition authorities.
- **Survey methodology.** Experts queried the methodology for the survey of self-employed, including the selection criteria for the participants and how the questions were phrased and the representativity of the sample.
- **Problem definition for the study**. Experts queried the problem definition in terms of having a policy problem, either a problem in the market, in society or a legal problem, rather than a task for the study to complete. In particular, one expert talking about addressing vulnerability. It was explained by DG COMP that there is limited competence in this area, which is why there is a focus on legal aspects related to competition law, rather than general employment policy, which strays into DG EMPL territory.
- **Clustering.** There was broad agreement on clusters 1 and 2. One expert queried clusters 3, 4 and 5 in that there is overlap between these clusters. There was also discussion of the placing of IE and NL in one cluster and whether it might be better to separate them, particularly in light of the fact that the NL solution is a soft law document and an attempt to interpret EU law, which is different to the special case of IE. The challenge is that each country is unique and the countries do need to be split in certain ways. Ecorys explained that the approach that was taken was to focus on the legal solutions that were in place regardless of whether they were used or not. For example, the main thinking behind cluster 5 is the fact that that is a competition law solution rather than a labour law solution. DG COMP added that this is a difficult balancing exercise to see whether everything is in order from a legal perspective but also based on what happens in practice. The thinking behind grouping IE and NL together was that in practice, the national competition authorities do not intervene. The discussion on the clustering also touched on the issue of what the countries that allow collective bargaining aim for, and how and why these countries detect the vulnerable groups that are covered by collective agreements in these countries, such as journalists and creative arts workers. It was noted that one of the categories where there are collective agreements covering self-employed is journalists, and one of the reasons for this is to ensure that they are not under the control of editors, in order to maintain freedom of press.
- **Focus of the study.** The debate also touched on the issue of flexibility in self-employment and the potential impact of Covid in terms of increasing flexibility also for employees, thereby reducing incentives for self-employed. Although this was slightly out of the scope of the study, it was recognised that Covid will indeed have a significant impact on the way in which work is carried out in the future, with much more working at

home, possibly in a hybrid working arrangement, with time split much more between the office and home, for those who can work in this way.

- **Balancing the interests of workers and consumers.** A question was asked about how it is possible to make a judgement as to what is in the interest of consumers. The debate here revolved around the assumption that the impact on the self-employed is the improvement of pay and also other working conditions. If pay improves for the self-employed then it may also impact on prices for consumers, although this will be analysed much more closely in the impact assessment. Overall, in order to estimate consumer welfare it is necessary to have an idea of the shape of the demand curve for the output of self-employed.

The second part of the discussion focused on the baseline scenario and impact analysis work. The main points of this discussion were as follows:

- **Baseline scenario.** There was a discussion about the inclusion of agricultural workers from self-employment studies as the downward trend relating to the number of self-employed in that sector, is compensated by an upward trend in other types of self-employment. The economist experts noted that these are normally excluded. There was also discussion about platform workers, in that these workers in general make up a small part of the total of self-employed, even though there is a lot of attention and focus on these workers at present. As a consequence, there is room for the total number of platform workers to grow while the total number of self-employed falls.
- **Overview of theoretical direct effects.** Discussion here revolved around whether it was possible to collectively bargain a contract that fixed pay rates, possibly also introducing a ceiling for pay. There was also discussion about the potential effect on wages of employees in similar/related jobs, either via collective bargaining to restore differentials, or through market effects, i.e. seeing self-employed "colleagues" earning more leads employees to push for more pay. It was noted that trade unions have a difficult choice in terms of whether to bargain for employees only or self-employed as well. One economist expert noted that if highly productive workers charge higher rates and lower productivity workers adjust their rates down, then thought needs to be given to what might happen if collective bargaining raises the pay floor. Further, it was noted that non-pay issues are very important, as some people are happy to trade off some employee perks for more flexibility. Therefore, one collective agreement cannot cater for the preferences of all self-employed and it could be argued that highly productive people do not need a collective agreement at all, they just charge high pay rates and can justify that.
- **Likely significant impacts.** A discussion was held on the range of likely impacts of the options to enable collective bargaining to be extended to self-employed.
    - One element of the discussion focused on working conditions and how to define them, and whether this should cover all terms of employment that are negotiated collectively.
    - One of the big debates in Ireland is the cost to the state. It was noted by other experts that for a self-employed worker who is not covered for risks associated with a lack of demand for their services or risk of disability, these costs will have to be picked up by the State, which does increase the costs to the state. One element that should be included, therefore, is whether a Member State has a social security system covering self-employed. Overall, any effects on the State are passed on to tax payers, so if collective bargaining reduces the cost to the State, this is a benefit to consumers as tax payers.
    - One of the economists suggested making an estimate of the potential impact on aggregate employment of the extension of collection bargaining to self-employed, assuming that it leads to increased pay at the bottom end, which may be analogous to the potential impact on aggregate employment of introducing or increasing a minimum wage.
    - It was noted that collective bargaining could also have a positive effect on platforms, which may want to offer higher pay to ensure a more stable workforce but currently fear to do so due to the chilling effect of EU competition law.

- **Extension of collective agreements.** A debate was also held about the extension of collective agreements across a sector and whether or not solo-self-employed could be covered against their will by such agreements. It was noted that the situation differs with Member States, with some countries not practising the extension of agreements across a sector.
- **Experiences of non-EU countries.** Experts discussed the fact that there are proposals to introduce sectoral collective bargaining in New Zealand . For the purposes of this study, what is interesting is that the expert group in New Zealand proposed including 'contractors' (i.e. self-employed), but the NZ government has decided not to act on this for now. Further, the ACCC in Australia has just adopted a class exemption allowing self-employed and small businesses to collectively bargain.
- **Changes in pay rates.** Experts felt that it was difficult to draw many general conclusions from the small number of existing new collective agreements for self-employed as, almost by definition, they are not likely to be typical of the impacts of any future agreements which might come in after any policy change. It is therefore risky to make quantitative conclusions on a few examples of agreements. There was then a debate about whether it was possible to hypothesise that a collective labour agreement for self-employed workers would not go beyond a collective labour agreement for workers simply because the market would not bear it. The study economist noted that the argument would be that self-employed are willing to trade off some pay compared to employees against increased more flexibility. This might mean that lower increases could be expected, compared to employees. It may be possible to formulate three hypotheses: 1) pay rate is lower 2) pay rate is same 3) pay rate is higher.

A full report of this expert seminar is available in Annex 7.

3. Final Impact Assessment

3.1. Impact of COVID-19 on the self-employed in the EU

The COVID-19 pandemic has had a significant impact on all areas of the EU's labour market over the past 18 months. For the self-employed, there have been a number of specific impacts as evidenced by recent literature and surveys, and these are explored here.

There has been a **significant slowdown in the supply of work** in a number of sectors, due to restrictions on public gatherings and overall movement. This has in particular impacted sectors such as tourism, hotels, restaurants and hospitality, construction, transportation, and the arts and live performances. Eurofound's second edition of the 'Living, working and COVID-19' e-survey[48] found that in July 2020, 27% of self-employed people reported they felt they were likely to lose their jobs in the next three months.

Eurofound (2021)[49] notes that workers in non-standard employment relationships, including the self-employed, have been **particularly vulnerable to the impacts of the COVID-19 crisis**. Eurofound's 'Living, working and COVID-19' e-survey showed that the likelihood of becoming unemployed during the COVID-19 crisis was much higher for solo self-employed people (13%) than employees (8%) and self-employed people with employees (2.3%), although a significant share of the latter group (5.9%) shed employees to become solo self-employed.

In terms of welfare support, Eurofound (2021) notes that governments in at least three-quarters of the Member States recognised the significant impact of sector closures on self-employed people and implemented income support measures that "would previously have been unthinkable". Nevertheless, many self-employed **have not had access to unemployment benefits** or other types of welfare benefits, such as sickness insurance, during the crisis, due to the fact that they are often not covered by these schemes. Research by the ETUI[50] found that formal access to social protection schemes remained basically the same as it had been before the crisis for the self-employed, although waiting periods and other specific conditions related to status were modified in some of the countries where the self-employed have access to these schemes. It noted that there are multiple schemes of *ad hoc* support for self-employed and some fragmentation between them: some schemes do not cover all the categories of the self-employed, or sometimes one country has several schemes targeting the different categories of self-employed, such as those in Cyprus, Denmark and Italy.

This research also found that there were no changes to unemployment benefit schemes for the self-employed during the first wave of the pandemic (except in Sweden, for workers working less than 50%). This means that those without formal access to unemployment benefits remained excluded, including in times of Covid-19. A number of temporary schemes were set up, but the ETUI research found nothing to show that any of these schemes was permanent.

The ETUI research also found that the COVID-19 pandemic has underlined "**acute gaps in social protection systems".** In particular, it found that the self-employed are among the categories of workers most at risk if the crisis is protracted, also because of limited access to social protection schemes in several Member States. This was confirmed by discussions held during an OECD webinar on COVID and self-employment in December 2020, which noted that eligibility criteria (such as hours-worked thresholds or previous tax returns) have made it difficult for some self-employed to access support measures. This appears to be exacerbating inequalities

[48] Reported in: Eurofound (2021), COVID-19: Implications for employment and working life, COVID-19 series, Publications Office of the European Union, Luxembourg.

[49] Ibid.

[50] Spasova S., Ghailani D., Sabato S., Coster S., Fronteddu B. and Vanhercke B. (2021) Non-standard workers and the self-employed in the EU: social protection during the Covid-19 pandemic, Brussels, ETUI.

among the self-employed because those who have the greatest difficulty accessing support are those who need it the most[51].

Self-employed people who remained in employment were also much more likely than employees to report that their **working hours had fallen** (around 50% compared with 25%)[52]. These findings are echoed in national surveys: for example, in Germany, over half of self-employed individuals saw their working hours reduced by an average of 16 hours and 60% declared an associated decline in income[53]. However, Eurofound research published in 2020[54] found that there were no significant negative impacts for the self-employed in terms of working conditions, although job insecurity increased for the self-employed in comparison to employees, and confirmed that the level of working hours decreased. This research also found that there were no significant health and safety risks for the self-employed, as they could more easily avoid contact with other workers or with the public. Fewer self-employed respondents reporting a perceived risk of contracting COVID because of work: less than one-third, compared to 44% of employees.

Potential impacts on collective bargaining

The reduction in the level of work available has arguably **weakened the bargaining position of the solo self-employed** in the sectors that have been hardest hit by the pandemic. Therefore, this has potentially reduced the likelihood of the conclusion of any new collective agreements for the self-employed in these sectors.

Conversely, lack of access to unemployment and other welfare benefits may result in the solo self-employed deciding to **bargain collectively in the future to create some type of social security coverage.** However, the risk of unemployment for the self-employed is largely uninsurable, meaning that it would be difficult to conclude any type of collective agreement on this issue. Further, there have been some specific income support measures put into place to help the self-employed during the crisis, as noted above, which would reduce the need to cover the issue of unemployment insurance in a collective agreement. Eurofound (2021) found that the new or amended support schemes for the self-employed have been positively assessed in most Member States by policymakers, social partners and representative organisations of self-employed people. If these new measures are largely temporary, however, this effect could be short-lived.

As also noted below, in the short term while Covid lockdown measures last, companies may have a stronger preference to work with the solo self-employed. For example, Focacci and Santarelli (2021) found that many workers who lost their job during the pandemic started to work as solo self-employed.[55] However, it is too early to say whether this shift to self-employment will be permanent.

3.2. Problem definition and policy options

3.2.1 Problem definition

Solo self-employed and platform workers

According to Eurostat figures based on the Labour Force Survey, the number of solo self-employed have declined since 2010. This decline can be attributed to the solo self-employed in agriculture and seems largely

[51] What are the impacts of COVID-19 on self-employment and what policies are needed?

https://www.oecd.org/cfe/leed/Self-employment_and_COVID-19_7Dec_SUMMARY.pdf

[52] Eurofound (2020a), Living, working and COVID-19: First findings – April 2020, Publications Office of the European Union, Luxembourg.

[53] Kritikos, A., Graeber, D. and Seebauer, J. (2020), Corona-Pandemie wird zur Krise für Selbständige, DIW aktuell, No. 47, Deutsches Institut für Wirtschaftsforschung, Berlin.

[54] Eurofound (2020), Living, working and COVID-19, COVID-19 series, Publications Office of the European Union,

Luxembourg.

[55] Foccacci, C.N. and E. Santarelli (2021), Job Training, Remote Working, and Self-Employment: Displaced Workers Beyond Employment Hysteresis, GLO Discussion Paper, No. 780, https://www.econstor.eu/handle/10419/229652

driven by the retirement of small farmers (without personnel). The number of solo self-employed in the occupational category of professionals has increased. These trends do not necessarily include the "false" self-employed. The Labour Force Survey asks people to classify their own labour market status. A discrepancy between the self-reported employment status of platform workers and their employment status according the platforms they work through, indicates that people often consider themselves employees even if they officially only work through service contracts. According to digital labour platforms active in the EU, 92% of the people working through their platforms are self-employed.[56] Indeed, most platforms do not work with employment contracts.[57] And if platforms work with employment contracts, they are overwhelmingly zero-hours contracts.[58] However, according to COLLEEM studies only 5-6% of the platform workers classify themselves as self-employed, compared to 60% reporting themselves as employees and 35% as students and homemakers.

As opposed to trends of solo self-employed in general, for the number of platform workers whose numbers rapidly increased in the past few years. In 2011, major platforms like Uber, Foodora, Helpling and Deliveroo were not yet founded or active in the EU. In 2018, according to the COLLEEM II study, 5.5 per cent of the adult population aged 16-74 in 16 EU countries work through platforms either at least 10 hours per week, or for at least 25% of their income.[59] Based on PPMI data, 21.3 million people worked through platforms at least 10 hours per week or for at least 25% of their income.[60]

Number and characteristics of solo self-employed

The number of solo self-employed in general increased earlier according to Eurofound (2017), from 10.1% in 2002 to 10.7% of the EU employed labour force in 2015.[61] According to the Eurostat Labour Force Survey, there were on average 19.5 million solo self-employed in 2020, or 6.1 per cent of the population aged 18-74. Williams and Lapeyre (2017) found that 10 million people are "dependent" self-employed, i.e. either (a) working for only one client, or (b) having no authority to subcontract work, or (c) having no autonomy over their work.[62] Using Eurofound (2017, ibid.) it is estimated that roughly half of the self-employed without employees and not being small traders and farmers are in a weak position.[63] The solo self-employed in a weak position are defined as dependent on one client or having little economy. Eurofound subdivides this group into 2.6 million "concealed" self-employed who depend on one employer or have little autonomy although they do not have low income or low job security (for whom the weak position is less obvious), and 5.4 million "vulnerable" self-employed who in addition to having little autonomy also have low income and/or low job security (for whom the weak position is obvious). However, Eurofound reported that the classification depends on the criteria and that clusters do not correlate with sector or occupation.

Cross-border dimension

Self-employment also has a cross-border dimension. Agriculture is one sector with both many migrant workers (an estimated 800,000 to one million workers are migrant workers working on mostly temporary contracts)[64] and many (false) self-employed: 22 per cent of all "dependent" self-employed work in agriculture (Williams and

[56] CEPS, ibid.
[57] De Stefano et al. (2021), Platform work and the employment relationship, ILO Working Paper 27
[58] SER (2020), How Does the Platform Economy Work? SER Advisory Report 20/09.
[59] Urzi Brancati, M.C., Pesole, A. and Fernandez Macias, E. (2020), New evidence on platform workers in Europe, EUR 29958 EN, ISBN 978-92-76-12949-3, doi:10.2760/459278, JRC118570, https://publications.jrc.ec.europa.eu/repository/handle/JRC118570
[60] PPMI (forthcoming), Study to support the impact assessment of an EU Initiative on improving the working conditions of platform workers, VT/2020/053

[61] Eurofound (2017), Exploring self-employment in the European Union, Chapter 1; https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1718en.pdf
[62] Williams, C. and F. Lapeyre (2017), Dependent Self-Employment: Trends, Challenges and Policy Responses in the EU, ILO Employment Working Paper no. 28, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3082819 . This study used the 2015 European Working Conditions Survey (EWCS).
[63] Based on Figure 10, taking out the employers and small traders and farmers, based on the categories (a) vulnerable, (b) concealed and (c) stable own-account workers. The share of (a) and (b) among these three is roughly one half.

[64] See M-L. Augère-Granier (2021), Migrant seasonal workers in the European agricultural sector https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689347/EPRS_BRI(2021)689347_EN.pdf

Lapeyere 2017, ibid.). However, also in road haulage and construction migrant (false) self-employment was already increasing in the early 2010s.[65]

Collective agreements and the need for EU action

In response to these trends, the rights of solo self-employed in general have been debated.[66] In 2014, the EU Court of Justice decided that a collective agreement that sets minimum fees for "false" self-employed who in reality amount to employees does not violate EU competition law.[67] Nevertheless, it also confirmed that genuine self-employed are undertakings under EU competition law. This means that EU competition rules are a primary source of legislation to determine if a collective bargaining agreement of genuine self-employed violates EU law. Specifically, Article 101 TFEU prohibits 'undertakings' to collude on prices, and self-employed are often considered as 'undertakings' rather than 'workers'. This aims to ensure fair competition and competitive prices for consumers.

Stakeholder feedback indicates that EU competition law has a chilling effect on collective bargaining[68], which creates a need for action at the EU level. In the agenda for 2019-2024, the President of the European Commission has pledged to "*look at ways of improving the labour conditions of platform workers.*"[69] And Commissioner Vestager stated that "*we need to make clear that those who need to can negotiate collectively, without fear of breaking the competition rules*."[70]

There is a possibility that even "genuine" self-employed people are in a vulnerable position when working for a professional customer, as opposed to work for an end consumer where negotiations take place one-on-one. This study further explores the position of genuine self-employed. However, also for "false" self-employed who are increasingly recognized as employees in court decisions, removing the chilling effect of EU competition law may help improve living standards to decent levels, a right that is enshrined in the European Pillar of Social Rights.[71]

Objective setting

The overall aim is to define types of self-employed that should be allowed to bargain their pay and other working conditions collectively as a means to improve their living conditions (calling for broader exemptions to Article 101 TFEU) on the one hand and on the other hand to still ensure competition between undertakings and competitive prices for consumers (calling for narrower exemptions to Article 101 TFEU).

The specific objectives to be achieved are:

- Identification which groups of solo self-employed should not be hindered from bargaining collectively
- A safe harbour for collective bargaining even for genuine solo self-employed

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[65] E.g. A. Thörnquist (2013), False (Bogus) Self-Employment in East-West Migration, TheMES Working Paper 41, https://www.diva-portal.org/smash/get/diva2:637985/FULLTEXT01.pdf

[66] See Fulton L. (2018) Trade Unions Protecting Self-employed Workers. ETUC. Brussels, https://www.etuc.org/sites/default/files/publication/file/2018-10/Trade%20unions%20protecting%20self-employed%20workers_EN.pdf
Prassl J. (2018) Collective Voice in the Platform Economy: Challenges, Opportunities, Solutions. ETUC, https://www.etuc.org/sites/default/files/publication/file/2018-09/Prassl%20report%20maquette.pdf
OECD (2020) The Future of Work – Expert Meeting on Collective Bargaining for Own-Account Workers, https://www.oecd.org/els/emp/Summary_Expert_Meeting_CB.pdf
Daskalova V. (2017) 'Regulating the New Self-Employed in the Uber Economy: What Role for EU Competition Law?', TILEC Discussion Paper https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3009120
Young C. (2019) 'Are platform workers really their own boss?', OECD Observer No 317, https://www.oecd-ilibrary.org/economics/are-platform-workers-really-their-own-boss_22b57a7f-en

[67] See Judgment of the Court (First Chamber), 4 December 2014, FNV Kunsten Informatie en Media v Staat der Nederlanden, Case C-413/13.

[68] In the Open Public Consultation this was mentioned by trade unions from Belgium (2x), Denmark and Finland. Two of these made this a general point, and two mentioned the chilling effect specifically for the media sector.

[69] See https://ec.europa.eu/info/sites/default/files/political-guidelines-next-commission_en_0.pdf

[70] Executive Vice President Vestager's speech "Keeping the EU Competitive in a Green and Digital World", delivered in the College of Europe, Bruges, on 2 March 2020

[71] European Commission (2017), European Pillar of Social Rights, https://ec.europa.eu/info/strategy/priorities-2019-2024/economy-works-people/jobs-growth-and-investment/european-pillar-social-rights/european-pillar-social-rights-20-principles_en

- Easily comprehensible guidance about the application of EU competition law on collective bargaining agreements
- While avoiding undue harm to competition and consumers

3.2.2 Option development

The options that are considered all relate to the personal scope (the relevant self-employed). Specifically, relevant self-employed include[72]:

- Only solo self-employed (or own-account self-employed), thus excluding self-employed who have developed their business enough to hire other workers
- Only those providing their own labour / services, thus excluding sellers or resellers of goods (farmers, and shop, webshop and restaurant owners without employees)
- Only those providing their labour through a platform or to professional customer would be covered.[73] Thus, plumbers and accountants working for end consumers are not in scope.

A key in defining the relevant group of self-employed who should be allowed to bargain collectively is their individual bargaining power for their provision of labour. Self-employed with personnel and those selling products do primarily sell their own labour and are generally considered undertakings. People who work for end-consumers can bargain one-on-one about their fee rate.

The main negotiation conditions would be:

- The scope of the agreement is limited to working conditions including pay conditions
- Enterprises may also enter the agreement collectively
- No form of unilateral price setting by solo self-employed is allowed

The four options of groups of self-employed who would be allowed to bargain pay conditions collectively are:

1. Platform workers
2. Platform workers and solo self-employed working for enterprises above a minimum size
3. Platform workers and solo self-employed working for enterprises of any size, except those working in regulated (and liberal) professions
4. Platform workers and solo self-employed working for enterprises of any size

A general point relating to all policy options is how self-employed migrants from third states should be treated. The assumption is that any competition law safe harbour would be agnostic with regard to the legal citizenship status of the self-employed.

The above four options are explored further below.

Option 1 Platform workers

This option covers all solo self-employed providing their own labour through digital labour platforms.

This option is interpreted to include all solo self-employed regardless of whether they have legally declared themselves as self-employed and regardless of whether they have a company. Hence, people in countries such

[72] Based on a background note of the European Commission of 21 April.
[73] See Inception Impact Assessment. https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12483-Collective-bargaining-agreements-for-self-employed-scope-of-application-EU-competition-rules_en

as Finland and Germany who can start working for themselves without officially being registered as an undertaking, would also be covered.

It is assumed that the scope of this option covers all persons providing their own labour through digital labour platforms. This would then include persons who only provide their labour incidentally (a few weeks per year) or marginally (a few hours per week). One argument to cover all platform workers is that incidental and marginal platform work are arbitrary to define. Another argument is that labour platforms could exploit the exclusion of incidental and marginal platform work from a collective coverage by assigning only incidental or marginal work.[74] A third argument would be that in a survey of platform workers, the COLLEEM study found that 60% of the platform workers report their employment status to be an employee, 35% as students and homemakers and 5-6% as self-employed.

The types of digital platforms to be covered need to be consistent with a parallel initiative of DG EMPL on platform work. For the purpose of this impact assessment, digital labour platforms is assumed to include all matchmaking platforms that enable workers to offer their labour. For example, Airbnb for home rentals or platforms for car sharing would be excluded. Digital labour platforms that currently set pay conditions unilaterally such as Uber and Foodora are obviously included. However, even if self-employed set their own pay conditions for the service, the platform plays a key role in the matching, and may match customers with workers with the lowest pay conditions, such as Ageras for accounting, jellow for construction workers and Helpling for cleaning services.

For all types of digital platforms, this option would only allow negotiations with the platform. Specifically, negotiations about fees that customers pay to people offering their work through platforms would not be allowed.

Option 2: Platform workers and solo self-employed working for minimum-sized enterprises

In this option, solo self-employed may also start to bargain working conditions with an individual firm if it employs a minimum number of employees, or perhaps a minimum turnover. A requirement in terms of minimum number of employees would have the drawback that precisely enterprises who work with solo self-employed instead of employees would not be covered in this variant. It could also place seasonal workers or “peak workers” at a disadvantage if the off-season number or permanent core number of workers is taken as the reference point.

Of course, annual turnover also has its drawbacks. Specifically, turnover depends on the price of services or goods, which may fluctuate substantially in oil-related sectors and agriculture. In addition, some sectors consistently generate a high turnover per worker because of high capital investments: mining, heavy industries and banks. This might give rise to allow to set the minimum size per enterprise per sector, or to allow sectors to deviate from the general minimum size based on sound arguments.

In case the collective agreement is concluded at the sector level, this option would only apply to enterprises above the minimum size in the relevant sector.[75] In practice, one might take the average size of the last five years as a criterion to determine which enterprises are covered by the sector agreement in the next five years, to avoid on-off coverage and court cases about the reference year.

Option 3: all platform workers and self-employed except those in liberal professions

This option would mean that self-employed working in professions for which professional qualifications are needed, are excluded from the right to collectively bargain their working conditions. The exclusion of liberal professions would relate to both platform workers and solo self-employed providing services.

The underlying assumption is that they are in a better position to determine their pay conditions and other working conditions individually because a regulation limits their supply through a licence system, often with qualification or membership requirements or student quota. There is an EU website of regulated professions,

[74] Studies on temporary agency work might provide evidence on the possibility of this type of behaviour.
[75] The sector would be defined as the enterprises participating in the collective agreement. Participating enterprises would typically be members of an employer organisation. In some countries, the government can extend the coverage to enterprises not participating in the collective agreement to ensure a level playing field.

for which professional qualifications are needed.[76] Some countries such as Poland (225 professions) regulate much more professions than others such as Greece (49 professions). However, this option only aims to exclude regulated professions where solo self-employed have sufficient individual bargaining power, "liberal" professions for short. There is no EU list of liberal professions. A possibility under this option is that Member States can define their own list of professions where solo self-employed are excluded from the right of collective bargaining. Another way would be to provide a list of specific professions to be excluded from the EU competition law safe harbour.

If Member States can decide for themselves what are the relevant "liberal" professions where solo self-employed may not collectively bargain working conditions, there is no need to specify them in EU law. However, for an impact assessment a working assumption is needed. In the end, this study uses the category "professionals" in the International Standard Classification of Occupations (ISCO)[77]. This classification uses skills levels and a distinction between manual and non-manual work as a basis to group employed people. The skills levels are determined on the basis of typical qualification requirements (in vacancies, not necessarily in law). Since liberal professions are often (though not always) regulated with certain professional qualifications at university level, ISCO and specifically the category of "professionals" is considered to be a reasonable first approximation of liberal professions, and this study uses this category in the assessment of the third option.

The deliberations to use the ISCO category of "professionals" is as follows. A natural starting point for a classification of "liberal" professions are definitions in national laws. Such definitions have been identified for only seven countries.

- Austria defines liberal professionals as those registered and approved as such by the ministry of Finance. Professionals in 11 professions are generally approved as liberal professionals.[78]
- Belgium defines liberal professions as those regulated by the ministry of Justice (legal professions) or the ministry of Health (medical and paramedical professions), as well as eight professions governed by special regulations.[79]
- In the Czech Republic, a defining characteristic of liberal professions was originally that they could only be performed by natural persons, although these professionals can now also form legal entities under certain conditions including the manager being a qualified professional in an executive role. The 20 liberal professions are regulated by the laws 36/1967 (on experts and interpreters), 220/1991 (medical professions), 360/1992 (technical professions), 85/1996 (legal professions), and 220/2000 (auditing professions).[80]
- France introduced a legal definition of liberal professions in 2012, in Article 29 of Law no. 2012-387 that reflects the above criteria for legal professions.[81]
- In Germany, Article 18 of the income tax law lists 32 liberal professions.[82]

[76] See https://ec.europa.eu/growth/tools-databases/regprof/
[77] See https://www.ilo.org/public/english/bureau/stat/isco/isco08/

[78] Interpreters, journalists, tax experts, tax consultants, notaries, lawyers, designers, musicians, actors, physicians, veterinarians, see https://www.finanz.at/business/freiberufliche-taetigkeit/
[79] Real estate agents; land surveyors; registered accountants and tax consultants; chartered accountants and tax advisors; company auditors; psychologists ; architects; car experts; https://www.belgium.be/en/economy/business/regulated_occupations/free_and_intellectual_occupations
[80] Lawyers, architects, freelance engineers, authorized inspectors, surveyors, restorers, auditors, tax advisors, valuers, liquidators, bankruptcy trustees, pharmacists, doctors, dentists, veterinarians, notaries, bailiffs, expert witnesses, interpreters, translators.
[81] See https://www.legifrance.gouv.fr/loda/id/JORFTEXT000025553296/
[82] See https://www.gesetze-im-internet.de/estg/__18.html. These include 6 medical professions (physicians, dentists, veterinarians, pharmacists, naturopaths, physiotherapists), 3 legal professions (lawyers, patent attorneys, notaries), 6 auditing professions (auditors, tax consultants, tax experts, consulting and business economists, sworn accountants), 9 technical professions (surveyors, engineers, architects, pilots, biologists, chemists, computer scientists, environmental verifiers, sworn experts) and 8 cultural professions (journalists, photo reporters, interpreters, translators, designers, qualified teachers, yoga teachers, writers).

- Italy defines “intellectual professions” which fall in one of two groups: those organised through chambers or orders and those regulated by ministerial decrees.83 Professional chambers vary per region. For example, in Tuscany, 28 intellectual professions are regulated through chambers.[84]
- In Portugal, Article 151 of the Tax Code defines 15 groups of liberal professions.[85]
- In Spain, liberal professionals are those registered and approved as such by the Tax Authorities and must register their business under the corresponding legal form. The catalogue of listed businesses include mostly physicians, lawyers, architects and journalists.[86]

Because most Member States do not have a legal definition of liberal professions and because existing definitions vary widely, alternative definitions of liberal professions have been considered as well:

- Dictionary definitions
- Defining principles
- Regulated professions

According to a dictionary, liberal arts are “college or university studies (such as language, philosophy, literature, abstract science) as opposed to professional or vocational skills”.[87] Here, liberal refers to unrestricted thinking as opposed to applied sciences. Some dictionaries exclude science, law, medicine, and business from liberal professions.[88]

However, the term liberal professions is generally understood to include more professions. According to the European Economic and Social Committee,[89] liberal professions are professions that share the following characteristics:

- The service has a public interest
- Tasks are performed professionally and economically independent
- Services are executed independently and personally
- The relationship between client and contractor is based on trust
- Profit maximization is restrained

The liberal professions defined in the laws of seven countries are generally but not always regulated. For example, in Germany the purpose of liberal professions is to offer certain tax advantages to remove an argument for high fee rates. Thus, IT specialists (Informatiker) and journalists are liberal professions in Germany but are not regulated in Germany according to an EU database of regulated professions.[90] Journalists are a liberal profession in not only Germany, but also in Austria, Italy and Spain; however journalists are regulated in Italy and Portugal only. Vice versa, many regulated professions, for example plumbers and carpenters, divers, drivers, pilots, etcetera are not considered liberal professions.

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[83] These are: experts and judicial experts, tax experts, music therapists, psychomotor therapists, shiatsu operators, Feldenkrais method teachers, family harmonizers, counsellors, tax consultants, and associates of the Centro Studi Erich Fromm, see https://www.regione.toscana.it/professioni-intellettuali/regolamentate

[84] These are: stockbrokers, agronomists and forestry workers, agricultural technicians, architects, planners, landscape architects and conservators, social workers, actuaries, lawyers, biologists, chemists, auditors and accountants, labour consultants, industrial property consultants, pharmacists, geologists, geometers, journalists, alpine guides and ski instructors, nurses, engineers, doctors and dentists, notaries, midwives, agricultural experts, industrial experts, psychologists, medical radiology health technicians, rehabilitation and prevention health professionals, food technologists, veterinarians. See https://www.regione.toscana.it/professioni-intellettuali/ordinistiche

[85] Architects, engineers and similar technicians; sculptors and related artists, musicians and actors; bullfighters; economists, accountants, actuaries and similar professions; nurses, midwives and similar paramedical professions; lawyers and solicitors; doctors and dentists; teachers and technical instructors; professionals depending on official appointments; psychologists and sociologists; chemists; priests; veterinarians; other technicians in liberal professions; other reserved professions, https://www.e-konomista.pt/profissoes-liberais/

[86] See https://blog.secretaria.es/2016/06/como-me-convierto-en-un-profesional-liberal/

[87] See https://www.merriam-webster.com/dictionary/liberal%20arts

[88] See https://dictionary.reverso.net/english-cobuild/the+liberal+professions

[89] See https://www.eesc.europa.eu/resources/docs/summary-en-final-glossy.pdf, page 12

[90] See https://ec.europa.eu/growth/tools-databases/regprof/index.cfm

Table 5 Groups of professions that are liberal according to various criteria

Profession	Law	Dictionary	Principles	Regulated
1. Science and engineering				
Physical and earth sciences (e.g. chemists)	DE, IT, PT	✔	✘	CY, ES, FI, GR, IT, RO
Mathematicians, statisticians	✘	✔	✘	✘
Actuaries	IT, PT	✘	✔	DK, ES, IT, PL, SE, SK,
Life sciences (e.g. biologists)	DE, IT	✔	✘	ES, FI, IT, PT, RO, SI
Engineering (e.g. civil engineer)	CZ, DE, PT	✔	✔	AT CY CZ DK ES GR HR IT LT LU LV PL PT RO SK
Architects, surveyors, planners, designers	BE, CZ, DE, ES, IT, PT	✔	✔	EU27 except SE
2. Health				
Medical doctors (physicians)	AT, CZ, DE, ES, IT, PT	✘	✔	EU27
Nurses and midwives	IT, PT	✘	✘	EU27
Paramedics	AT, CZ, DE, ES, IT, PT	✘	✔	AT CZ DE DK FR HU IE LV PL SK
Veterinarians	AT, CZ, DE, IT, PT	✘	✔	✘
Pharmacists	CZ, DE, IT	✘	✔	EU27
Dentists, physiotherapists and other	CZ, DE, IT, PT	✘	✔	EU27
Medical assistants (e.g. laboratory assistant)	IT, PT	✘	✘	AT, CZ, HU, LU, LV, SI
3. Teachers				
E.g. primary school teacher	PT	✘	✔	EU27 except BG, DE, MT
4. Finance				
Auditors, accountants, tax consultants and other	AT, BE, CZ, DE, IT, PT	✘	✔	EU27
Financial advisers	CZ, DE, PT	✘	✔	AT DE DK FR NL
Financial analists	DE, PT	✘	✘	✘
5. Administration				

Profession	Law	Dictionary	Principles	Regulated
Policy officers	✗	✗	✗	✗
HRM professionals	✗	✗	✗	✗
Training and staff development	✗	✗	✗	✗
Sales, marketing (e.g. marketing consultant)	✗	✗	✗	ES
Advertising	✗	✗	✗	✗
Public relations	✗	✗	✗	✗
6. ICT				
E.g. computer scientist	DE	✗	✗	✗
7. Legal				
Lawyers	AT, CZ, DE, ES, IT, PT	✗	✓	EU27
Judges	✗	✗	✗	✗
Archivists, curators	✗	✗	✗	BG, HR, HU, NL, RO, SI
Librarians	✗	✗	✗	FI, HR, SI, SK
8. Social				
Economists	PT	✓	✗	ES, GR, PT
Sociologists	PT	✓	✗	✗
Philosophers, historians, political scientists	✗	✓	✗	✗
Psychologists	BE, IT	✓	✗	EU27 except BG, DE, EE, LU
Social workers	IT	✗	✗	EU27 except BE BG DK LV NL PT
Religious professionals	PT	✓	✗	✗
Authors	✗	✓	✓	✗
Journalists	DE, ES, IT	✓	✓	IT, PT
Translators, interpreters	CZ, DE	✗	✓	DE EE ES FR GR HR HU NL PL RO, SE SI SK
9. Artists				
E.g. musicians	AT, PT	✓	✗	✗

Sources: Law: earlier footnotes; Dictionary: Ecorys assessment, Principles: https://www.eesc.europa.eu/resources/docs/summary-en-final-glossy.pdf, Regulated: https://ec.europa.eu/growth/tools-databases/regprof/index.cfm

Option 4: Platform workers and solo self-employed working for enterprises of any size

This option is a broader version of option 2, where solo self-employed may bargain working conditions with any enterprise instead of only enterprises above a certain minimum size. In case of a collective agreement at sector level, it would simply cover all enterprises in the sector, where the sector is again defined as the enterprises covered by the collective agreement (see earlier footnote).

The inception impact assessment mentions under this option, the possibility to explore "*whether public or semi-public professional organisations that unite all professionals exercising regulated professions should be allowed to negotiate on behalf of their members.*" [91]

3.2.3 Methodology

This step is broken down in two sub steps:

1. What is negotiated and how many solo self-employed are affected?
2. What is the strategic response of the counterparts?

Step 1. What is negotiated and how many solo self-employed are affected?

Removing the competition law obstacle to collective bargaining of certain groups of self-employed removes the uncertainty about the legality of collective agreements already in place and may result in more collective bargaining. This in turn may lead to improved working conditions. With regard to pay conditions, it is hard to see how a company could directly pay social security contributions on behalf of the self-employed. However, it could be agreed that a company pays a similar percentage on top of "regular" fees to the self-employed to use for social insurance. Some other working conditions that have an impact on the annual pay will receive particular focus. For other working conditions such as safety at work, worker representation, and training we merely note if they are included in the agreement. Some other working conditions might be specific to solo self-employed, such as the right to be given at least 48 hours advance notice (with increased pay if not), and again they would only be noted. The monetary impact of the agreement is limited to annual income from work and very closely related, the poverty rate. We propose to measure this effect by multiplying the change in income per solo self-employed with the number of affected solo self-employed, using the Standard Cost Model.

To this end, we need to make assumptions about what is negotiated. Based on the COLLEEM study, 68% of the platform workers is paid per task, 25% per hour and only 7% per month (like most employees). Under the assumption that only pay rates are negotiated, the number of work hours per solo self-employed are likely to remain the same. After all, the main advantage of using self-employed compared to employees is that self-employed are only paid when there is actually work for them. This advantage does not disappear if pay rates are increased as long as the self-employed do not outprice themselves.[92] Of course, higher payments would decrease the profitability of the company hiring self-employed, and thus the number of solo self-employed might decrease if their pay rates increase.

To assess what would be negotiated, we explore examples of collective agreements for self-employed in more depth. The first collective agreement would be most relevant, as perhaps this specifies an improvement of working conditions compared to the situation before a collective agreement was in place. The assumption would then be that future negotiations in other occupations or on other platforms would have similar results.

We look at both new collective agreements (likely for platform workers) and at existing collective agreements for employees which were extended to solo self-employed, specifically the so-called "side by side" workers.

[91] See Inception Impact Assessment, . https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12483-Collective-bargaining-agreements-for-self-employed-scope-of-application-EU-competition-rules_en

[92] As a side note, a different scenario in which hours per solo self-employed would change, is a scenario where minimum work guarantees or pay between assignments are agreed. In that scenario, it would make sense to allocate more work to the same people and not to make use of other solo self-employed at all.

Ideally, we would compare the collectively agreed pay rate with the pay rate before the collective agreement. However, we may need to compare collectively agreed pay rates with "typical" pay rates in earlier years, or on competing platforms that have no collective agreement, based on ad hoc data due to lack of statistical data. Since solo self-employed are an atypical workforce, literature on the effects of collective agreements of other types of atypical workers such as temporary agency workers may also inform this impact assessment.[93] Collective agreements for "regular" employees would not be useful because employees have established rights such as on working time and social security.

According to ILO,[94] the most common topics bargained in collective agreements for atypical workers are:

1. Securing regular employment (limitation of successive service contracts, requirement of a justification of using atypical workers)
2. Negotiating equal pay (as for employees)
3. Addressing the scheduling of hours (minimum number of hours and reasonable scheduling notice)
4. Extending maternity protection (financial support during early maternity)
5. Making the workplace safe (mostly through adequate training)

As a general point, the policy options not only provide which groups of solo self-employed may bargain working conditions collectively, but also implicitly which groups may not bargain collectively. This raises the question about the impact for those groups that national authorities currently consider as employee-like and are currently not hindered if they bargain collectively. Without safe harbours and under the assumption that businesses and self-employed feel safe to bargain collectively if national law or competition authorities clarify that they will not enforce EU competition on this (typically on the ground of the self-employed being considered employee-like).

Table 6 Groups for which the EU policy options would improve or worsen working conditions through collective bargaining

National authorities currently enforce EU competition law	Policy option will not allow to bargain collectively	Policy option will allow to bargain collectively
Yes	0	+
No	--	0

Step 2. What is the strategic response of the counterparts?

Depending on the policy option and the outcomes of the collective negotiations, the counterparts of solo self-employed may respond strategically.

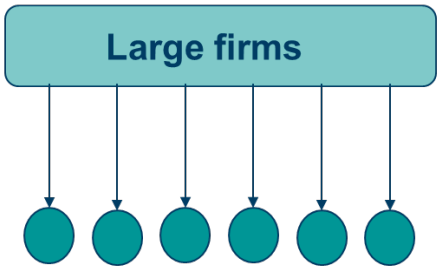
For the first policy option, we assume that the option means to cover all people providing labour through digital labour platforms, rather than only those who provide labour to those platforms. In both cases, platforms like Uber and Foodora would be covered. In addition, platforms like Ageras, jellow and Helpling are covered. It may be difficult to draw a line between labour and services, but if the intent is clear then court cases will help to draw the line. So in principle we expect no strategic responses in this first option.

For the second policy option, large employers can evade the size rule by hiring solo self-employed through subcontractors. However, the lower cut-off point is (whether in terms of number of employees or turnover),

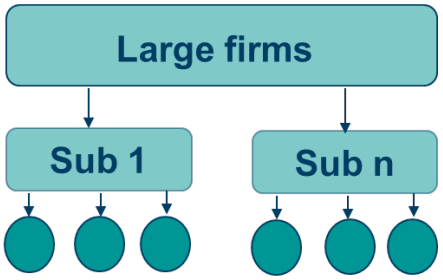
[93] See for example Pedaci, M. and L. Burroni (2014), Collective bargaining, atypical employment and welfare provisions: The case of temporary agency work in Italy, Stato e mercato, p. 169-194, doi 10.1425/77410 for Italy and

[94] ILO (2020), Collective bargaining and non-standard forms of employment: Practices that reduce vulnerability and ensure work is decent, Labour Relations and Collective Bargaining issue brief no. 3, https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_436125.pdf

the lower is the risk of circumvention. To illustrate the risk, in Poland construction enterprises typically hire many solo self-employed construction workers directly and large enterprises would be covered by the policy option. In the Netherlands, much of construction work is subcontracted, and subcontractors may in turn hire solo self-employed. The large firms would not be covered because they do not hire solo self-employed directly, and the subcontractors would not be covered if they are below the size limit. Here it does not matter whether firm size is measured in terms of number of workers or annual turnover. Under the second policy option, large employers might strategically shift from directly hiring solo self-employed to working with subcontractors to avoid collective bargaining. In the impact assessment, ultimately a low cut-off of 10 employees of the firm hiring self-employed is used. This low cut-off level also reduces the risk of subcontracting even smaller firms to in turn hire solo self-employed; the administrative burden for the subcontractors would simply be too high if those subcontractors are micro enterprises (with less than 10 employees).



Polish construction



Dutch construction

For the third policy option, there seems little incentive to evade collective bargaining by using more solo self-employed in liberal professions would not lower pay rates, because those with the liberal profession qualifications can assumedly negotiate their working conditions individually. A reason for this assumption is that the "supply" of people with professional qualifications is often limited, for example through a "numerus fixus" on the number of students, through work experience requirements and a limited number of work experience places, or through capital requirements and difficulties to obtain a loan for that. The requirement that work must be done by professionally qualified people and their limited supply increase the competition of companies for professionally qualified people. This in turn improves the (individual) bargaining position of liberal professionals.[95] Nevertheless, self-employed in liberal professions might seek to reclassify themselves as not being in a liberal profession. If they do this, they would also lose tax advantages which most countries that define liberal professions in their law (for example, in tax law) offer to self-employed in those professions. For this reason, the impact assessment does not take account of this potential strategic response.

The fourth policy option practically includes all solo self-employed working through platforms or for professional customers, and no strategic response seems possible, apart from options that are also available without the right of collective bargaining. For example, companies could always decide to outsource more work, to automate processes, or other strategies to reduce the cost of labour. However, such decisions can be made regardless of the bargaining position of solo self-employed and thus they are a less likely response to the policy options.

[95] For professionals providing services directly to consumers, the limited supply may have a smaller effect on the bargaining position in situations where consumers can do their business without the intermediation of professionals such as family lawyers or real estate agents. However, direct services to consumers would not be covered by the policy options anyway.

3.3. The Baseline Scenario

Developing the policy indicators based on Task 1

To compare assessments of economic, social and fundamental rights impacts of the EU policy options with the baseline, we need indicators on economic, social and fundamental rights in the baseline scenario. The relevant indicators need to enable answers to some key questions about the impacts of self-employment.

The baseline scenario against which the policy options will be assessed encompasses the chilling effect that all solo self-employed in the offline and platform economy may be facing due to the potential application of EU competition rules on their collective bargaining agreements. However, as it is not possible to measure whether the chilling effect may affect less strongly the self-employed that are allowed to collectively bargain under national laws, an additional estimate is provided that excludes these self-employed from the group of self-employed affected by the chilling (described as "step 2" under section 3.4).

The policy options are clearly employment related. In addition, pay conditions and employer contributions to social security directly affect labour costs. There is ample evidence that the majority of increasing costs is passed on to consumers. Hence, the main impacts of the policy options are likely related to employment and consumers. In addition, impacts on some fundamental rights as laid down in the Charter of Fundamental Rights[96] may be relevant.

Toolbox 29 of the Better Regulation Guidelines[97] lists likely impacts of employment related policies:

- Impacts on the level of employment (labour demand, labour supply, indirect through purchasing power or labour shortages, required skills)
- Impacts on working conditions (wages, employment protection including false self-employed, risk of undeclared work, organisation of work, health and safety at work, social dialogue, access to training, labour standards e.g. working hours)
- Impacts on social inclusion (risk of poverty, income inequality, social protection rights, access to basic goods and services)
- Toolbox 32[98] lists impacts that are relevant for consumers:
- Impacts on cross-border shopping (Internal Market, purchases from third countries)
- Impacts on prices, quality, availability of choice
- Impacts on consumer information, knowledge, trust or protection
- Impacts on safety and sustainability of goods
- Impacts on vulnerable consumers

While most of the employment related impacts are relevant, perhaps with the exception of direct access to basic goods and services, effects on consumers are likely limited to prices, and indirectly quality and consumer choice. In addition, the level of employment and working conditions may have wider impacts on the economy, mainly through purchasing power (more people with income from work means more consumers with increased purchasing power) and income security (which may affect the savings rate). These impacts are discussed below.

Socio-economic impacts

Since the policy options remove a competition law obstacle to collective bargaining, increased collective bargaining and improving working conditions may be expected. The **wages and purchasing power** of solo

[96] See https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12016P/TXT&from=EN
[97] https://ec.europa.eu/info/files/better-regulation-toolbox-29_en
[98] https://ec.europa.eu/info/sites/default/files/file_import/better-regulation-toolbox-32_en_0.pdf

self-employed and platform workers will clearly increase, since pay conditions are the most likely aspect to be covered in collective agreements. While increased labour costs are largely passed on to consumers, the shares of solo self-employed and platform work as main job seem too small to have major impacts on the general price level and thus to cause a wage-price spiral. Thus, wage levels of solo self-employed and of platform workers are an important aspect of the socio economic impacts of the initiative.

With regard to **employment protection**, collective agreements may or may not provide that solo self-employed or platform workers need to be treated as employees. In the case of solo self-employed, this in turn might cause a shift to other forms of atypical work such as temporary agency workers. The reason is that a large part of the rationale to hire solo self-employed is that they are only hired when there is actual work for them (besides lower wages and absence of employer social security contributions). In the case of platform work, collective agreements are more likely to effectively increasing employment protection. Thus, the following are relevant factors for an analysis of the socio-economic impact: court rulings and legislation that provide that certain categories of solo self-employed or platform workers, but also other atypical workers, need to requalified into employees.

Health and safety at work and **access to training** are likely not to be much affected. Health and safety at work requirements exist regardless of the employment relationship, although with solo self-employed this is a shared responsibility between the hiring company and the self-employed. Not much training is needed for unskilled work which is the main part of solo self-employed and platform work. Some available studies indicate that training is similar between employees and self-employed. However, in the case of platform work, the reinforced competition for tasks and the rating of work efficiency may result in rapid work, tiredness and an increased risk of work accidents. To the extent an absence of sick leave results in continued work during sickness, this further increases the health risks of platform work.[99] An indicator of health and safety risks could be the percentage of solo self-employed and platform workers who are paid per task instead of per hour.[100]

The **social dialogue** will be affected to the extent that solo self-employed and platform workers can organize themselves, or to the extent that trade unions will bargain on their behalf. Trade unions face a dilemma here: their members are mainly employees so they have no incentive to bargain on behalf of solo self-employed. On the other hand, if solo self-employed have more rights, this decreases the incentive for employers to replace employees with solo self-employed. We have built our analysis on the basis of collective agreements that are extended to cover certain types of solo self-employed, as well as (limited) stakeholder responses.

With regard to **employment levels**, platform work and solo self-employment may both create additional jobs and displace other jobs. Therefore, not only the level of platform work and solo self-employment are relevant, but also the total employment level. To elaborate on this, it is often argued that platform work creates additional work. Increased pay may render platforms less viable in which case additional jobs may be lost, and/or less competitive in which employment may shift to other firms. For example, Uber may have created additional jobs and increased mobility, but also may have displaced taxi drivers. For solo self-employed the situation is a bit more complex. Solo self-employed that do not have their own business (assets), do work that could also have been done by employees or by other forms of atypical workers such as temporary agency workers. Solo self-employment may displace other forms of atypical work in which case effects are most likely limited to further deterioration of worker rights without affecting employment levels. To the extent solo self-employed displace employees, this could create additional employment in headcounts, but could destruct employment in full-time equivalency. The main reason is that solo self-employed are only hired when there is actual work for them. Without the possibility to hire temporary workers, companies may pass opportunities due to capacity constraints. On the other hand, employees are still employed (and get paid) if there is no actual work for them. To summarize, the following employment levels are relevant for the analysis:

- Employment of solo self-employed

[99] See EU_OSHA (2017), Protecting Workers in the Online Platform Economy, https://osha.europa.eu/en/publications/protecting-workers-online-platform-economy-overview-regulatory-and-policy-developments/view

[100] Given the inherent flexibility of self-employed and platform work on service contracts, pay per week or per month is less likely.

- Employment of platform workers
- Employment of other atypical workers
- Total employment
- Total employment in large and small companies

Because employment levels directly affect GDP, GDP forecasts are also used for the baseline. The impact on international competition is difficult to estimate. On-location work such as food deliveries and cleaning are clearly local, as well as work that requires knowledge of national rules such as tax consulting, architecture and legal counselling. However, the markets for some online work as translations and software coding are highly international.[101] Higher pay conditions in the EU for these services could affect the competitiveness and employment of solo self-employed in those occupations, for example if more clients outsource work to outside the EU. To the extent sectors exporting goods rely on the labour of solo self-employed, their international competitiveness could also be affected by higher pay conditions. Indicators would be the share of internationally competitive occupations and sectors in the employment of solo self-employed and platform workers.

The effects of collective bargaining of self-employed or platform workers on **labour demand and required skills** is likely limited to internationally competitive occupations. It is true that platform workers are above-average highly educated: 58% of the platform workers compared to 37% in the 16 countries covered by the COLLEEM surveys.[102] The shares of low- and medium educated people among platform workers were 7% and 35% respectively, lower than the 15 and 48% among employed people in general. However, unemployment among high-educated workers has always been rather low in the EU, falling from a peak of 6.9% in 2013 to 4.2% in 2019 according to the Eurostat Labour Force Survey. Hence for high-educated workers an increase in platform work may have implied mostly a shift in channels through which high-educated platform workers find employment. And as noted, in internationally competitive occupations such as software coding and translating, outsourcing is even a risk to the employment of high-educated solo self-employed. The unemployment rate among low- and medium educated fell much sharper between 2013 and 2019: from 19.9 to 13.3% and from 9.7 to 5.9% respectively. The creation of additional jobs by platforms seems indeed mostly in unskilled work such as food deliveries and taxi driving. Much of food deliveries is done by students, and it could be argued that demand creates its own supply while for taxi driving job creation and substitution are more difficult to differentiate. For other unskilled platform work such as cleaning, it is likely that platforms displace other forms of atypical works and the impact on labour demand is limited.

Although only a minority of 7% of the platform workers is lowly educated, the share of unskilled platform work is estimated to be about 50% by Eurofound: 33% of the platform workers find employment through platforms that offer low-skilled work only, and an additional 22% through platforms that offer a mix of low and medium skilled work. For unskilled work, the impact on skills requirements is obviously limited. For skilled work such as construction workers, journalists, architects, accountants, lawyers etcetera, it is difficult to separate supply and demand since both are limited. However, the survey of this study asks solo-self-employed and platform workers about their expectations for the next five years, from which conclusions can be drawn about supply and potential effects on skills shortages in the baseline. The principal indicator is unemployment rates by main occupation, combined with indicators such as ease of finding work.

The impact on **undeclared work** is difficult to assess given the limited data on undeclared work. Companies do not need to register solo self-employed with social security and income tax authorities like they need to register their employees. This could help companies hide part of their turnover, and the solo self-employed to hide their income from work. However, some countries require solo self-employed to register as such, which limits options to avoid VAT and income tax. For platform work, the risk of undeclared work depends on the type of platform. If platforms are actually direct employers, this limits the risk of undeclared work because the workers and their payment are registered as part of normal business. If platform workers or platform users pay a fee to the platform, the absence of employment contracts increases the risk of undeclared work. Since most solo self-

[101] See https://www.iab-forum.de/en/the-rise-of-online-labour-markets-freelancing-and-gig-working-via-internet-platforms/

[102] See JRC (2020), New evidence on platform workers in Europe, https://publications.jrc.ec.europa.eu/repository/handle/JRC118570

employed and platform work consists of irregular and unskilled work, income is likely below the income tax threshold and the impact on tax revenues would be limited anyway. The impact of undeclared work on minimum income support, from which income from work is deducted, is potentially larger. For skilled work, the risk of undeclared work is largely unknown, not only for solo self-employed and platform work, but also for employees. Due to these uncertainties and lack of data, no analysis was developed for undeclared work and potential impacts are discussed qualitatively. The impact on the **organisation of work** and **working hours** depends entirely on what is collectively agreed. For example, for side-by-side working solo self-employed, it is possible to increase the pay rate to compensate for the fact that they are not employed if there is no work for them. In this case, the organisation of work would remain unaffected. Platform work is also mostly paid per task or per hour. The organisation of work remains unchanged unless the agreement would provide that workers are paid per month, or must be paid in between tasks, or are entitled to minimum hours of work. If platform workers are paid between tasks or are entitled to minimum hours, this creates an incentive to assign more work to the same workers, which would reduce the headcount employment and increase the average working hours. The analysis is partly the same as for employment protection but includes trends in the basis for pay (per task, per hour, per month, payment in between tasks, minimum hours).

Social impacts

The **risk of poverty** and **income distribution** are directly affected by pay conditions. The analysis for this will consist of trends in the risk of poverty of solo self-employed and marginal workers, using EU-SILC data[103]. We used survey data and data from the COLLEEM study to estimate the share of marginal workers under platform workers. Relevant indicators are:

- Proportions of self-employed working on their own as their main and as a secondary job
- Earnings rates of self-employed per sector/activity
- Distribution of number of work days per year of self-employed
- Risk-of-poverty rate of self-employed and of employees
- Gap between actual income and risk-of-poverty threshold

The impact on **social protection** will depend entirely on what is collectively bargained. Self-employed already pay social security contributions to the State. Most overviews of social security contributions are limited to employer and employee contributions. One overview that includes contribution rates for self-employed is an EU survey of 2016.[104] In most countries self-employed pay less for social security (and have less coverage) than employees, but in some countries such as Latvia the contribution rate is actually higher for self-employed. However, it should be noted that contribution rates are difficult to compare between countries because for example healthcare is also largely paid from general tax revenues. The analysis will be similar as for employment protection: trends in court rulings, legislation. In addition, the baseline will consist of social security coverage and contribution rates of self-employed, as well as from existing collective agreements. Relevant indicators will be:

- Indicator of legal coverage by social security for self-employed, specifically coverage of disability and old age
- Indicator of actual coverage by social security (data from online survey of self-employed)
- Other indicators of work satisfaction of self-employed (data from online survey of self-employed)

Access to basic goods and services is not likely affected by the policy options, other than indirectly through the risk of poverty or social protection to the extent that it covers access to for example healthcare. Therefore,

[103] EU Survey of Income and Living Conditions, https://ec.europa.eu/eurostat/web/microdata/european-union-statistics-on-income-and-living-conditions

[104] See https://www2.deloitte.com/content/dam/Deloitte/cz/Documents/survey/EU-Social-Security-Survey.pdf

no separate analysis is developed for this, but we comment to what extent people at risk of poverty have inadequate access to basic goods and services.

With regard to **consumer prices**, inflation and the interest rate are currently very low in the EU due to a savings surplus. Given the importance of pension savings and the ageing society, this is not likely to change soon and therefore we assume that there will be "no change".

With regard to **savings**, low-income households tend to spend most of their income on consumption while households with higher incomes spend proportionally less and save more. In general, increased income results in a higher savings ratio. However, increased income certainty and social protection may reduce the need of own savings. The trend in savings have increased for a while and accelerated during the pandemic due to lack of shopping opportunities caused by lockdown measures.

Fundamental rights impacts

With regard to solidarity, some impacts on fundamental rights in the Charter overlap with economic and social impacts, namely article 28 on the right of collective bargaining, article 30 on protection in the event of unjustified dismissal, article 31 on fair working conditions, and article 34 on social protection (including healthcare). Other aspects that might be covered in collective agreements are the **right to information and consultation of workers** (article 27) and the **right to combine professional and family life** (article 33). The solidarity fundamental rights of placement services (article 29), protection of young people at work (article 32), access to services of general economic interest (article 36), environmental protection (article 37) and consumer protection (article 38) seem less relevant for the policy options of this study. A relevant indicator on the right to information and consultation is the percentage of self-employed reporting lack of transparency on platforms' policies (data from online survey of self-employed), and perhaps the percentage of young mothers working as solo self-employed or as platform workers: especially if they can pass opportunities.

3.4. Numbers of people affected

3.4.1 Introduction and existing long-term forecasts

Due to data shortcomings the quantification of the numbers of people affected as well as the forecasts for 2030 have to rely on a number of assumptions or proxies. The assumptions used are discussed and motivated in the following. Nevertheless, the data limitations and assumptions taken result in some uncertainty of the estimates developed further below.

Conducting sensitivity scenarios for variations in each and every one of the necessary assumptions would go beyond the scope of this report, as it would result in an unmanageable number of additional results and tables. Nevertheless, this section develops a range of estimates for the numbers of people affected under each option ranging from an upper bound estimate of the number of people potentially affected to a lower bound that takes into account that some solo self-employed may already have the possibility to bargain collectively, that they would not be covered by collective bargaining agreement reached, or that they would not be affected by such an agreement.

In this chapter, the numbers of people potentially affected by the four policy options are discussed, in four steps.

- Step 1: the numbers of platform workers (for all policy options) and total number of solo self-employed that offer labour services to professional clients (for policy option 2-4) are estimated.
- Step 2: the number of solo self-employed in certain situations that would not be affected because Member States currently already provide access to collective bargaining for (some) solo self-employed and/or would not interevene against collective bargaing agreement concluded by them. Case law about false self-employed is not taken into account because it is assumed that EU competition law may still have a chilling effect as companies can argue that the case law does not apply to their specific situation.

However, the policy options would still improve the legal clarity about the application of EU law to existing collective agreements of solo self-employed, even if the collective agreements themselves remain intact

- Step 3: scenarios are developed that recognize that not all solo self-employed would be covered by a collective agreement even if collective bargaining is allowed
- Step 4: scenarios are developed that recognize that some self-employed are not affected because they can bargain better working conditions individually than collectively

In most policy options, all platform workers would be allowed to bargain collectively. The exception is the third one where solo self-employed in liberal professions would not be allowed to bargain collectively; this is assumed to also apply to platform workers.

The starting point for the developing a baseline against which to compare the numbers of solo self-employed whose working conditions may improve, consists of existing employment forecasts. Long-term employment forecasts up to 2030 are available from Cedefop, however only for total employment[105]. OECD publishes only short-term forecasts of the number of self-employed, the most recent forecast is for 2021. In order to develop a baseline scenario, we therefore extrapolate trends of the share of self-employed without employees within total employment.

To start with the Cedefop forecasts: total employment is expected to increase by 5 percent at the EU level in 2030 compared to 2018. By country, the growth is strongest in Luxembourg, Cyprus and Ireland (+20 to 30%, see Table 7). Table 7 shows the increase in total employment (including employees) for the five main occupations with the largest share of self-employed without employees. By main occupation, the growth is strongest among managers 106 (not shown in the table), professionals, technicians and associate professionals. A strong decline is expected for skilled agricultural workers [107], a large part of the group of self-employed without employees.

[105] Cedefop Skills Forecasts, https://www.cedefop.europa.eu/en/publications-and-resources/data-visualisations/skills-forecast

[106] Interim managers can be solo self-employed, but they are a very minor group and the analysis will focus on the occupations with more substantial numbers of solo self-employed.

[107] Skilled agricultural workers includes both farmers and skilled seasonal workers. According to the ISCO classification (https://www.ilo.org/public/english/bureau/stat/isco/isco88/6.htm), "*Skilled agricultural and fishery workers grow and harvest field or tree and shrub crops, gather wild fruits and plants, breed, tend or hunt animals, produce a variety of animal husbandry products, cultivate, conserve and exploit forests, breed or catch fish and cultivate or gather other forms of aquatic life in order to provide food, shelter and income for themselves and their households [,,,] . Tasks performed by skilled agricultural and fishery workers usually include: preparing the soil; sowing, planting, spraying, fertilising and harvesting field crops; growing fruit and other tree and shrub crops; growing garden vegetables and horticultural products; gathering wild fruits and plants; breeding, raising, tending or hunting animals mainly to obtain meat, milk, hair, fur, skin, sericultural, apiarian or other products; cultivating, conserving and exploiting forests; breeding or catching fish; cultivating or gathering other forms of aquatic life; storing and carrying out some basic processing of their produce; selling their products to purchasers, marketing organisations or at markets. Supervision of other workers may be included.*"

Table 7: Change in total employment (employees + self-employed) by selected main occupations, projection 2030 compared to 2018

	% change 2018-2030					
	Employment					
	Total	Professionals	Technicians	Service & sales	Skilled agri	Craft
EU	5%	13%	12%	5%	-32%	-4%
AT	11%	10%	25%	17%	-11%	-3%
BE	9%	13%	22%	15%	26%	-5%
BG	-12%	4%	-2%	-14%	-90%	-20%
CY	29%	35%	37%	25%	-3%	10%
CZ	-2%	8%	12%	-5%	-6%	-14%
DE	4%	9%	6%	3%	11%	-1%
DK	8%	18%	20%	1%	-36%	1%
EE	-3%	5%	4%	-5%	-35%	-11%
ES	9%	9%	30%	11%	-18%	1%
FI	6%	8%	9%	-2%	-4%	11%
FR	6%	13%	11%	11%	-25%	-5%
GR	9%	17%	40%	9%	-25%	14%
HR	2%	21%	10%	-3%	-57%	4%
HU	4%	24%	10%	0%	-20%	-15%
IE	22%	14%	46%	21%	-13%	37%
IT	3%	16%	11%	-7%	-32%	-1%
LT	-6%	5%	9%	-8%	-21%	-5%
LU	31%	55%	23%	-5%	8%	7%
LV	-1%	15%	6%	-6%	-31%	-9%
MT	9%	18%	13%	6%	9%	9%
NL	3%	12%	3%	5%	-49%	-10%
PL	-4%	9%	9%	-8%	-53%	-14%
PT	12%	16%	28%	13%	-11%	1%
RO	10%	39%	16%	30%	-40%	-4%
SE	8%	15%	12%	11%	-24%	-4%
SI	7%	17%	22%	-3%	-82%	0%
SK	8%	8%	15%	17%	-7%	0%

Source: Cedefop Skills Forecasts

Despite the revolution of the “gig economy” and specifically platform work, the share of self-employed without employees has declined between 2011 and 2020 according to Eurostat data (see Table 8). Eurofound (2017)

noted an increase in solo self-employment from slightly over 10% in 2002 to slightly under 11% in 2015, and a slight decline between 2010/2011 and 2015. The picture based on Eurostat is the same with 2019 instead of 2020 as end year so the decline due to lockdown measures did not cause an endpoint bias. At the EU level, the share of self-employed in total employment declined for most main occupations except for craft workers (construction and skilled industrial workers). In most Member States the share of self-employed changed by one percent point or less. The share increased in nine Member States: by 2 percent point in the Baltic countries and the Netherlands and by one percent point in Hungary, Belgium, France, Malta and Spain.

However, it should be noted that the source of Eurostat data is the Labour Force Survey which is based on self-reported labour market status. As is clear from the COLLEEM studies, most platform workers report themselves to be employees even when they have no employment contract. Given the limitations of the self-classification of employment status by platform workers, we considered alternatives. Unfortunately, most forecasts of the employment of "gig workers" such as the Randstad forecasts are qualitative. We instead consider scenarios as an alternative. One possibility is to use the share of "gig workers" in 2019 according to COLLEEM II data (which is also by main occupation) as end point and extrapolate the trend compared to 2011 under the assumption that platform work was negligible in 2011 [108]. A CEPS 2020 study points to a sharp increase of platform work in some countries in recent years, referring to Huws et al. (2019) who noted that the share of people who undertook work weekly through platforms doubled from 4.7% of the adult population in the UK in 2016 to 9.6% in 2019. However, according to the COLLEEM I study in 2017 already 9.9% of the population in the UK worked monthly or more often through platforms and 6.7% did so for 10 hours or more per week, so the 2016 value of Huws likely underestimates the actual value. We propose to combine the evidence from these studies with the extrapolations based on the Eurostat Labour Force Survey by country and main occupation. In the end, multiplying the share of own-account self-employed by country and main occupation with the total employment by country and 2-digit occupations gives a baseline for the number of self-employed. Table 8 presents a trend extrapolation of the share of self-employed without employees (solo self-employed) in total employment, by main occupation. These were multiplied with forecasts of total employment to obtain estimates for 2030. Most platform workers (60%) report themselves to be employees in the COLLEEM studies, one third report themselves as a homemaker or student and only 5-6% as self-employed. Hence, the assumption is that the solo self-employed do not include platform workers.

Table 8:Trend extrapolation of the share of self-employed without employees by main occupation

Share of ow n-account self-employed in total employment, 2011, 2020 and forecast 2030			
	2011	2020	2030
Total across occupations	10%	9%	9%
Managers	8%	6%	5%
Professionals	11%	11%	11%
Technicians	8%	8%	8%
Clerks	2%	1%	1%
Service & Sales Workers	10%	10%	9%
Skilled agricultural w orkers	54%	52%	51%
Craft w orkers	12%	13%	14%
Machine operators	5%	5%	4%
Elementary jobs	4%	3%	2%

Source: Eurostat Labour Force Survey (2011, 2020), Ecorys trend extrapolation (2030)

For platform workers, the assumption that it is negligible in 2011 and extrapolation to 2030 implicitly assumes that the trend will be the average of the slow start in 2011 and 2012 and the rapid expansion since 2013. This needs to be seen as a scenario, and CEPS (2020) cites from Aloisi (2018) that "*experts genuinely do not know how they will develop*."

[108] Platform work did already exist in 2011 but major platform networks were established later. For example Uber was only founded in the USA in 2012, Foodora was founded in 2014 (under the name of Volo GmbH), Helpling was launched in 2012 and Deliveroo was founded in 2013.

The professional split of platform workers differs clearly from self-employed. From the COLLEEM 2017 study, where the type of work was a multiple choice question, 43% of the platform workers did 'online clerical and data entry' work. 30% did professional work and 30% did creative work, 25% worked on sales, 15% worked in transport and another 15% worked on location.

3.4.2 Platform workers (option 1, step 1)

All platform workers would be covered, including those who rarely offer to work through a platform, or for example only once in between jobs, or for only one day per week. According to Table 1 in Eurofound (2019)[109], about half of the platform workers are engaged in low-skilled work:

- 48.9% low-skilled on-location (e.g. Uber, Oferia, GoMore, ListMinut)
- 5.3% low to medium skilled online (e.g. Crowdflower)
- 45.8% medium to high skilled online (e.g. appJobber, Be My Eyes, Clickworker, Freelancer, 99designs)

However, the impact on annual income of platform workers offering their services only occasionally or marginally would be only small. The focus is therefore on platform workers who offer labour services as a main job (defined as 50% or more of personal income or 20 or more hours per week) or as a secondary job (defined as 25-50% of personal income or 10-20 hours per week). The number of platform workers offering labour as a secondary job is weighted by half to account for the smaller impact of platform work regulations on their total personal income. According to COLLEEM data, the number of affected persons would be 17.4 million at EU level, and 11.6 million after weighting. According to data provided by PPMI these numbers increased to 21.3 million in 2021 (unweighted) with a corresponding estimated full-time equivalent of 14.1 million FTE, see Table 9.

[109] Eurofound (2019), On-location client-determined moderately skilled platform work: Employment and working conditions

Table 9 Weighted number of platform workers (year 2021)

	Main job	Secondary job	Main + secondary	Weighted: main + 1/2 secondary
EU	7,025,375	14,243,506	21,268,880	14,147,127
AT	94,111	169,310	263,421	178,766
BE	157,535	283,895	441,430	299,483
BG	94,138	255,990	350,128	222,133
CY	21,147	38,127	59,274	40,210
CZ	138,222	255,386	393,609	265,915
DE	1,007,594	1,741,288	2,748,883	1,878,238
DK	64,617	120,945	185,562	125,090
EE	17,831	32,946	50,777	34,304
ES	1,110,681	2,126,191	3,236,872	2,173,777
FI	120,453	235,226	355,679	238,066
FR	803,479	1,447,951	2,251,430	1,527,455
GR	166,701	300,508	467,209	316,955
HR	50,044	90,185	140,230	95,137
HU	162,408	513,549	675,956	419,182
IE	49,414	92,489	141,903	95,659
IT	1,127,155	1,904,104	3,031,260	2,079,208
LT	33,357	61,633	94,990	64,174
LU	7,729	13,905	21,633	14,681
LV	32,280	87,779	120,060	76,170
MT	7,294	13,477	20,771	14,033
NL	383,752	749,411	1,133,163	758,458
PL	578,324	1,828,715	2,407,039	1,492,682
PT	189,914	342,404	532,318	361,116
RO	260,806	709,209	970,015	615,410
SE	220,320	430,252	650,572	435,446
SI	33,160	104,854	138,014	85,587
SK	92,906	293,777	386,683	239,794

Source: PPMI (forthcoming) Study to support the Impact assessment of an EU Initiative on improving the working conditions of platform workers.

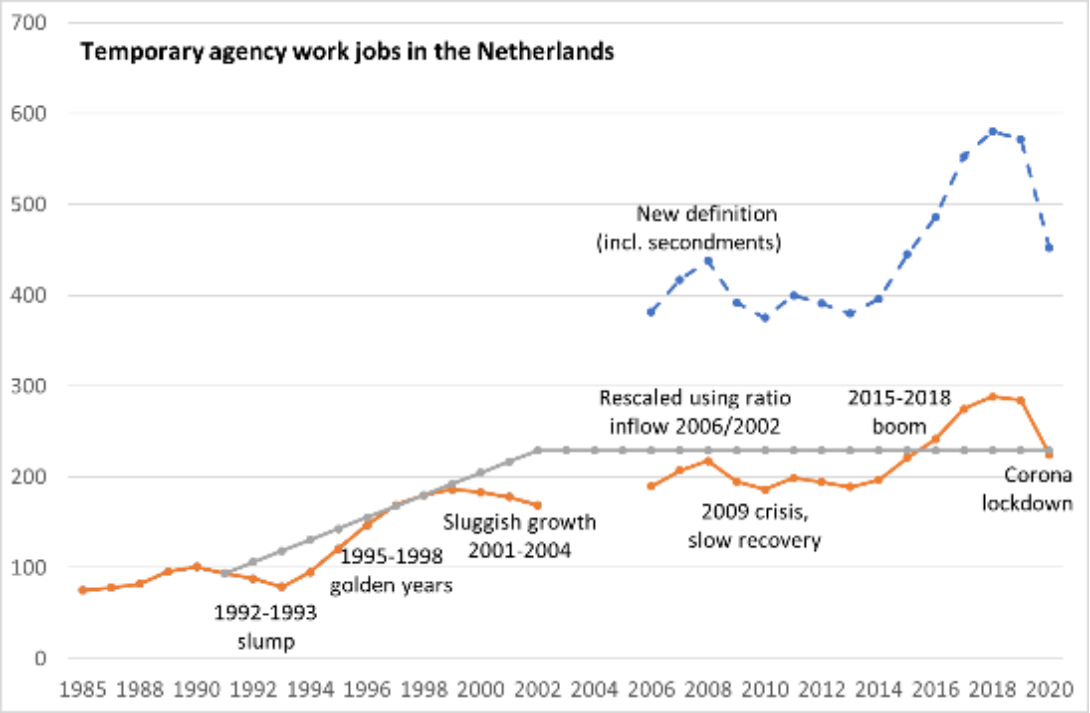
For projections up to 2030, COLLEEM data on numbers of platform workers in 2017 and 2018 and the figures on 2021 provided by PPMI are used. It is assumed that the number of platform workers was negligible in 2011, because none of the major platforms like Uber and Foodora existed in that year. Data on numbers of platform workers in 2021 are expected end of July 2021. Based on the extensive literature that the number of platform workers increased rapidly between 2015 and 2018, it is likely that growth would continue for a while, also because platform work uses new technology. There are signs that the number of platform workers is flagging down in 2020 due to a fall in demand for taxi services due to lockdown measures although this is partly compensated by an increase in demand for food deliveries.[110] Nevertheless, part of the rapid recent growth of platform work may have been fuelled by the general economic growth between 2015 and 2018.

To assess the likelihood of further developments, a comparison with temporary agency work may be useful. Temporary agency work has been used for decennia for additional workers during peak days in work load and to temporarily replace sick staff. In the nineties, temporary agency work was in addition used as a strategic flexible work force. Many reports noted that temporary agency work more than doubled in the nineties or around 2000, depending on the country. Taking a longer view, it needs to be noted that the rapid increase was real, but also fuelled by economic growth at the end of the "golden nineties". Taking a longer view for one country with long time series data on temporary agency work (the Netherlands, with a change of definition in between),

[110] See CEPS (2021), Digital labour platforms in the EU, https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8399&furtherPubs=yes

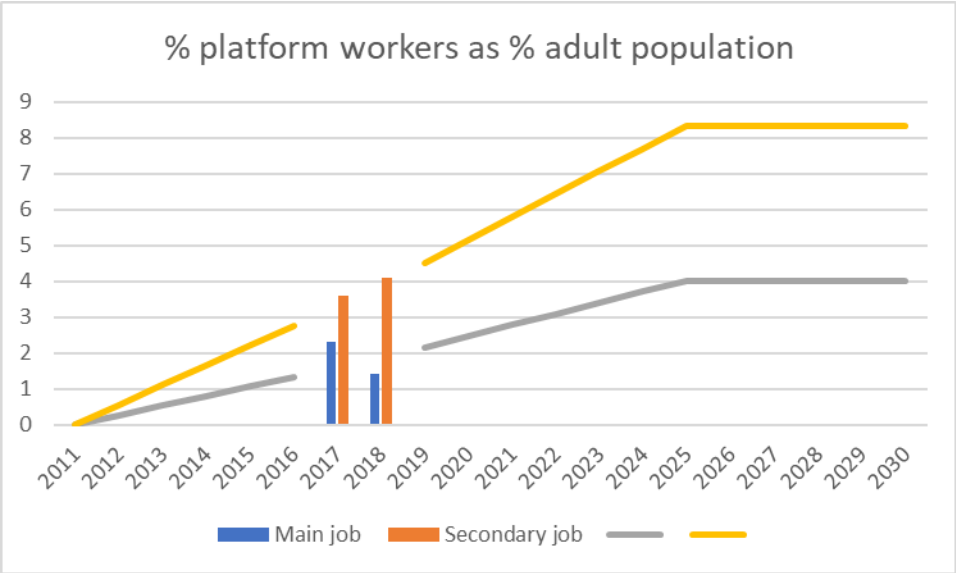
temporary agency work increased more moderately with ups and downs after the nineties, with a second strong increase during the economic boom of 2015-2018 (see Figure below).

Figure 17 Trends in temporary agency work in the Netherlands, 1985-2020



A comparison with this historical parallel shows that one must be careful not to extrapolate a rapid growth for too long. Therefore, it is proposed to extrapolate the growth of platform work for 10 years since 2015 and assume a flat line after that (see figure below).

Figure 18 Number of platform workers as % adult population, 2011-2030



Extrapolating the percentage of platform workers among adults aged 18-74 for all EU Member States based on COLLEEM 2017 and 2018 data until 2025 and applying this percentage to the Eurostat population forecasts for

age 18-74 shows that the weighted number of platform workers at the EU level would increase from 12.0 million in 2019 to 20.5 million in 2025 and then remain quite stable at that number (see Table 10).

Table 10:FTE estimate of platform workers per country, 2019-2030

	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
EU	12,011,577	13,430,771	14,147,127	16,269,159	17,688,353	19,107,547	20,526,741	20,526,741	20,526,741	20,526,741	20,526,741	20,526,741
AT	227,099	208,575	178,766	205,866	224,049	242,549	261,361	262,090	262,814	263,461	264,194	264,967
BE	254,074	284,305	299,483	344,754	375,633	406,806	438,260	439,463	440,628	441,731	442,907	444,111
BG	179,536	206,623	222,133	252,544	271,755	290,632	309,127	306,029	303,650	301,531	299,267	297,309
CY	27,917	35,007	40,210	46,550	50,956	55,404	59,926	60,240	60,563	60,937	61,331	61,725
CZ	184,448	231,173	265,915	304,311	329,343	354,575	379,928	379,284	378,597	378,074	377,658	377,086
DE	2,175,583	2,078,810	1,878,238	2,162,395	2,352,429	2,541,546	2,727,128	2,723,540	2,719,178	2,714,769	2,711,571	2,708,559
DK	149,533	141,018	125,090	143,404	155,713	168,323	181,231	181,608	182,023	182,387	182,750	183,097
EE	29,919	33,003	34,304	39,369	42,735	46,108	49,440	49,438	49,403	49,380	49,390	49,350
ES	1,947,757	2,118,002	2,173,777	2,516,162	2,752,332	2,987,479	3,224,711	3,241,312	3,256,901	3,268,922	3,280,238	3,293,323
FI	124,427	186,326	238,066	272,898	295,895	318,890	341,990	341,571	341,265	341,017	341,076	341,216
FR	1,386,856	1,496,495	1,527,455	1,756,521	1,910,366	2,065,485	2,222,400	2,224,694	2,227,694	2,230,903	2,235,499	2,240,294
GR	276,415	304,928	316,955	362,952	393,252	423,619	453,959	452,770	451,634	450,859	449,992	448,982
HR	81,455	90,741	95,137	108,688	117,400	126,134	134,612	133,720	132,935	132,100	131,224	130,290
HU	261,611	349,372	419,182	481,641	522,179	562,836	603,520	601,634	599,771	598,100	595,104	591,583
IE	134,301	118,485	95,659	111,577	122,997	134,653	146,526	148,383	150,180	151,974	153,749	155,504
IT	1,660,166	1,919,233	2,079,208	2,385,462	2,591,679	2,799,081	3,009,988	3,013,267	3,016,732	3,020,948	3,024,294	3,026,648
LT	61,033	64,365	64,174	73,531	79,465	85,057	90,183	89,150	88,179	87,333	86,557	85,789
LU	16,511	16,116	14,681	17,076	18,795	20,557	22,366	22,609	22,847	23,069	23,292	23,504
LV	53,144	66,435	76,170	86,934	93,508	99,856	105,856	104,760	103,666	102,530	101,350	100,145
MT	14,259	14,547	14,033	16,417	18,108	19,811	21,511	21,704	21,915	22,134	22,351	22,587
NL	668,199	732,787	758,458	872,747	949,779	1,027,488	1,105,343	1,106,490	1,107,513	1,108,479	1,109,650	1,111,004
PL	854,378	1,204,740	1,492,682	1,712,061	1,853,738	1,994,338	2,134,033	2,125,544	2,116,877	2,109,056	2,100,104	2,090,947
PT	290,932	335,107	361,116	414,811	450,539	485,655	520,314	518,538	516,526	514,470	512,927	511,320
RO	491,910	568,429	615,410	703,094	759,275	814,416	866,175	858,721	851,587	844,849	838,168	830,135
SE	281,238	367,438	435,446	502,994	549,854	597,577	646,422	651,114	656,027	661,255	666,827	672,674
SI	47,274	68,067	85,587	98,718	107,422	116,055	124,557	124,331	124,220	124,051	123,912	123,832
SK	131,603	190,643	239,794	275,680	299,160	322,616	345,873	344,737	343,416	342,420	341,356	340,761

Note: FTE = number of platform workers doing it as their main job (20+ hours per week or 50%+ of income from platform work) plus half of the platform workers doing it as their secondary job (10-20 hours per week or 25-50% of income from platform work)
Source: PPMI survey (year 2021), projection based on linear extrapolation of the share of platform workers in adults 18-74 (up to year 2025 and flatlining after 2025), times the population 18-74 predicted by Eurostat using data of 2017, 2018, 2021, assuming platform work was absent in the EU in 2011.

3.4.3 Self-employed not working through platforms (option 4, step 1)

In the fourth policy option, both the platform workers and all solo self-employed who offer their labour services to professional clients are covered. The total number of solo self-employed aged 18-74 *not* working through platforms in the EU is roughly 19.5 million (column A in Table 11, 2019 figure), based on the Eurostat Labour Force Survey. This estimate ignores a potential overlap between platform workers and solo self-employed, because only 6-7% of the platform workers report themselves to be employees according to the COLLEEM studies.

However, the number of solo self-employed includes solo farmers, solo shop owners and solo food sellers. Their numbers need to be estimated and subtracted from the total number of solo self-employed. These numbers were estimated by subtracting the number of 1-person enterprises in respectively agriculture, trade and accommodation/food services (according to the Eurostat Structural Business Statistics, most recent year 2018) from the number of solo self-employed (according to the Eurostat Labour Force Survey, 2020).[111] After subtracting the number of 1-person enterprises in agriculture ("farmers"), trade ("shop owners") and accommodation and food services ("restaurant owners"), the estimated numbers of solo self-employed offering labour services in these sectors drop to zero in most countries, with two main exceptions:

[111] This may underestimate the number of solo self-employed offering labour services in those sectors because one person may own multiple enterprises, however no data is available at the EU level on the number of enterprises that people own on average to adjust for that.

- Farm labourers in Romania
- Shop personnel in Mediterranean countries (Greece, Italy, Malta, Spain)

After subtracting the estimated number of solo self-employed product sellers, the relevant number of solo self-employed drops to 13.3 million. This may still overestimate the number of solo self-employed who would be allowed to bargain collectively in the fourth policy option, because some solo self-employed may offer their labour services to end consumers only (cleaners, plumbers), however they are still potentially covered even if not actually.

Table 11 Relevant number of solo self-employed not working through platforms for policy option 4 (year 2019)

	Nr solo self-employed 18-74, 2019							
	Total	Agriculture		Trade		Accomm/food services		Adjusted Total
	A	B = Agri Total	C = Non-farmers	D = Trade Total	E = Non-shop owners	F = Total	G = Non-owners	H = A-B-D-F+C+E+G
EU	19,492,100	3,727,500	525,690	2,546,100	152,058	595,200	7,028	13,308,076
AT	269,700	64,300	0	23,000	0	7,200	0	175,200
BE	467,600	22,000	0	57,800	0	21,600	0	366,200
BG	214,200	52,800	0	43,100	0	5,900	0	112,400
CY	44,500	5,200	0	4,500	0	1,600	0	33,200
CZ	699,200	28,100	11,190	73,400	0	17,500	0	591,390
DE	2,102,900	89,700	0	171,400	12,202	33,000	0	1,821,002
DK	131,100	11,200	0	13,000	0	2,700	0	104,200
EE	42,100	4,000	0	3,300	0	0	0	34,800
ES	2,066,200	217,200	0	447,800	45,630	142,500	0	1,304,330
FI	238,200	46,600	6,490	16,100	0	4,100	0	177,890
FR	2,047,500	247,400	0	255,400	0	63,900	0	1,480,800
GR	832,700	288,100	0	143,300	32,649	38,600	0	395,349
HR	101,900	44,400	0	6,800	0	2,200	0	48,500
HU	277,200	46,100	0	32,900	0	4,100	0	194,100
IE	219,400	56,200	0	15,000	0	4,900	0	143,300
IT	3,575,400	249,400	0	695,900	61,220	158,700	6,860	2,539,480
LT	115,700	30,700	0	16,300	0	0	0	68,700
LU	12,900	700	0	1,000	0	0	0	11,200
LV	62,600	19,800	0	4,900	0	0	0	37,900
MT	27,200	1,300	0	5,400	357	1,300	168	19,725
NL	1,100,700	58,200	24,220	93,400	0	19,400	0	953,920
PL	2,267,100	1,012,100	0	234,500	0	25,900	0	994,600
PT	522,500	129,400	0	76,300	0	27,800	0	289,000
RO	1,355,700	938,800	481,750	43,100	0	0	0	855,550
SE	306,600	38,200	0	26,700	0	8,100	0	233,600
SI	82,200	16,600	0	7,200	0	1,700	0	56,700
SK	309,100	9,000	2,040	34,600	0	2,500	0	265,040

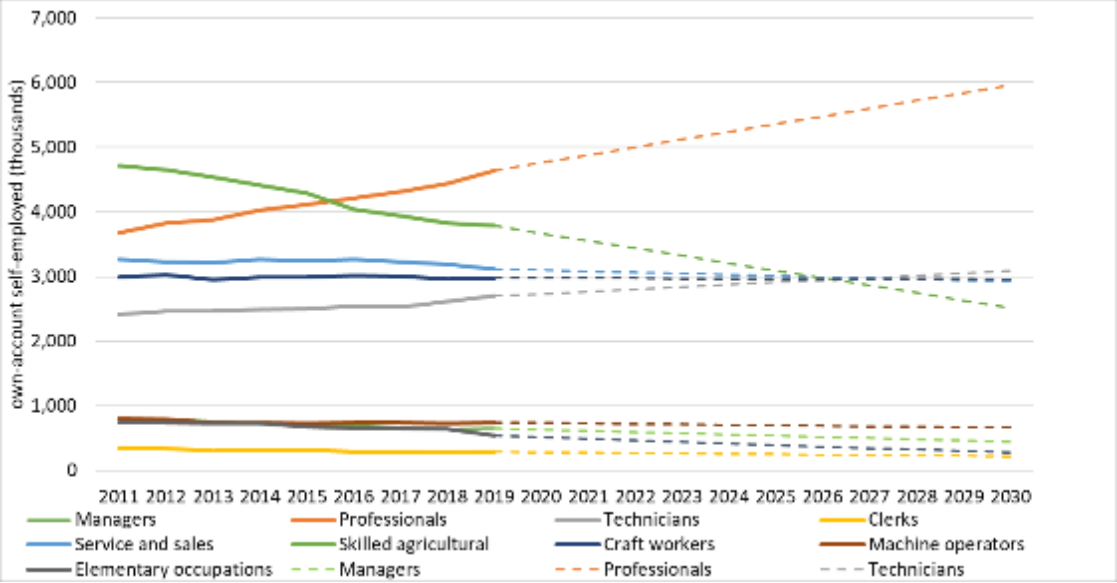
Sources: Eurostat Labour Force Survey and Eurostat Structural Business Statistics

Since the third policy option excludes solo self-employed in “liberal professions” from collective bargaining and since this group is approximated with the ISCO occupational group of professionals, a projection of solo self-employed by occupational group is relevant. The occupational split is projected by extrapolating the trends of the past ten years to the next ten years.

The number of solo self-employed was quite stable in the past ten years for most occupational groups (see figure below). No data are available to provide numbers excluding sellers of products, and thus in particular the number of skilled agricultural workers who are not farmers without personnel is likely overestimated. Nevertheless, the above analysis showed that more than 85% of the solo self-employed working in the agricultural sector are farmers without personnel (selling goods and thus out of scope). The same is therefore assumed for solo self-employed skilled agricultural workers. For simplicity, the numbers of solo self-employed

not selling products is assumed to be constant up to 2030 except for the occupational group of professionals. The number of solo self-employed professionals is projected to increase by linear extrapolation from an estimated 4.5 million in 2020 to 5.7 million in 2030.

Figure 19 Number of solo self-employed by occupational category, 2011-2030



Source: Eurostat Labour Force Survey

Including both platform workers and the solo self-employed not working through platforms or selling products, the number of persons affected by the fourth policy option is projected to increase from 26.9 million persons in 2020 to 35.1 million in 2030 (see Table 12). These numbers are the sum of the FTE of platform workers from Table 10 and the numbers from Figure 19 (where all solo self-employed are assumed to work full-time because according to Eurostat LFS survey 82% of the solo self-employed are working fulltime (EU27, year 2020).[112]

[112] Eurostat Labour Force Survey, LFSA_EFTPT

Table 12 Total FTE of platform workers and solo self-employed not selling products

	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
EU	25,319,653	26,857,272	27,692,053	29,932,510	31,470,129	33,007,748	34,545,367	34,663,792	34,782,217	34,900,642	35,019,067	35,137,492
AT	402,299	385,725	357,866	386,916	407,049	427,499	448,261	450,940	453,614	456,211	458,894	461,617
BE	620,274	657,880	680,433	733,079	771,333	809,881	848,710	857,288	865,828	874,306	882,857	891,436
BG	291,936	321,098	338,683	371,169	392,455	413,407	433,977	432,954	432,650	432,606	432,417	432,534
CY	61,117	68,644	74,285	81,063	85,906	90,791	95,751	96,502	97,263	98,074	98,906	99,738
CZ	775,838	828,300	868,780	912,913	943,683	974,652	1,005,743	1,010,836	1,015,887	1,021,101	1,026,423	1,031,589
DE	3,996,585	3,882,587	3,664,790	3,931,722	4,104,531	4,276,423	4,444,780	4,423,967	4,402,380	4,380,746	4,360,323	4,340,086
DK	253,733	245,668	230,190	248,954	261,713	274,773	288,131	288,958	289,823	290,637	291,450	292,247
EE	64,719	68,316	70,129	75,707	79,585	83,471	87,315	87,826	88,303	88,793	89,315	89,788
ES	3,252,087	3,441,345	3,516,132	3,877,530	4,132,712	4,386,871	4,643,116	4,678,730	4,713,331	4,744,365	4,774,693	4,806,790
FI	302,317	366,041	419,606	456,263	481,085	505,905	530,830	532,236	533,755	535,332	537,216	539,181
FR	2,867,656	3,007,857	3,069,380	3,329,008	3,513,416	3,699,098	3,886,575	3,919,431	3,952,994	3,986,766	4,021,924	4,057,281
GR	671,764	700,465	712,679	758,864	789,351	819,906	850,433	849,431	848,483	847,896	847,216	846,393
HR	129,955	138,979	143,112	156,401	164,850	173,322	181,537	180,382	179,335	178,237	177,099	175,903
HU	455,711	548,410	623,157	690,554	736,029	781,623	827,245	830,296	833,371	836,638	838,579	839,995
IE	277,601	262,223	239,834	256,189	268,047	280,141	292,451	294,745	296,980	299,212	301,424	303,616
IT	4,199,646	4,468,613	4,638,488	4,954,642	5,170,759	5,388,061	5,608,868	5,622,047	5,635,412	5,649,528	5,662,774	5,675,028
LT	129,733	134,440	135,624	146,356	153,665	160,632	167,133	167,475	167,879	168,408	169,007	169,614
LU	27,711	27,566	26,381	29,026	30,995	33,007	35,066	35,559	36,047	36,519	36,992	37,454
LV	91,044	104,822	115,045	126,297	133,358	140,194	146,681	146,072	145,466	144,817	144,125	143,408
MT	33,984	34,747	34,708	37,567	39,733	41,911	44,086	44,754	45,440	46,134	46,826	47,537
NL	1,622,119	1,700,857	1,740,678	1,869,117	1,960,299	2,052,158	2,144,163	2,159,460	2,174,633	2,189,749	2,205,070	2,220,574
PL	1,848,978	2,223,115	2,534,832	2,777,986	2,943,438	3,107,813	3,271,283	3,286,569	3,301,677	3,317,631	3,332,454	3,347,072
PT	579,932	628,494	658,891	716,973	757,089	796,592	835,639	838,250	840,626	842,958	845,802	848,583
RO	1,347,460	1,425,516	1,474,035	1,563,257	1,620,975	1,677,653	1,730,950	1,725,034	1,719,437	1,714,236	1,709,093	1,702,598
SE	514,838	602,350	671,671	740,531	788,704	837,740	887,897	893,901	900,127	906,668	913,552	920,712
SI	103,974	125,617	143,987	157,968	167,522	177,005	186,357	186,981	187,720	188,401	189,112	189,882
SK	396,643	457,596	508,659	546,458	571,850	597,218	622,388	623,165	623,756	624,673	625,521	626,839

Sources: COLLEEM surveys, Eurostat Labour Force Survey and Structural Business Statistics. Extrapolation by Ecorys.

3.4.4 Self-employed working for firms of a certain size (option 2, step 1)

In the second policy option, only solo self-employed working for large enterprises would be allowed to bargain collectively. A great majority of 90% of the enterprises are enterprises with less than 20 employees according to the Eurostat Structural Business Statistics. The number of solo self-employed hired by enterprises increases with firm size, however less than proportionally. The number of solo self-employed hires depends on the business cycle: numbers are much lower during slumps. According to a Dutch study[113], local business units with fewer than 10 employees hire on average through the business cycle 3.5 solo self-employed. Local business units with 10-19 employees actually hire fewer solo self-employed over the business cycle (2.5). From there, the number of solo self-employed increases again with the size of the business unit, up to 14.6 for local business units with 250 or more employees. Assuming that the number of hires of enterprises with a given number of employees is the same as for a local unit with the same number of employees, the number of hires also varies from 2.5 to 14.6 for enterprises as a whole (Table 13).

113 Ecorys (2010), Labour hoarding door bedrijven (Labour hoarding by companies), https://docplayer.nl/3595091-Labour-hoarding-door-bedrijven.html.

Table 13 Number of hires of solo self-employed by firm size (2008-2010)

	2008	2009	2010	Average
1-9 employees	3.92	3.44	3.24	3.53
10-19 employees	2.94	2.72	1.94	2.53
1-19 employees	3.45	3.10	2.65	3.07
20-49 employees	6.09	5.91	3.68	5.23
40-99 employees	7.92	5.23	3.43	5.53
100+employees	16.35	12.63	8.74	12.57
100-249 employees	11.87	8.91	7.66	9.48
250+ employees	19.30	14.96	9.45	14.57
50-249 employees	10.70	7.84	6.37	8.30
Total	9.62	7.83	5.50	7.65
10+ employees	11.02	8.89	6.06	8.66

Source: Ecorys (2010), Netherlands

Of course, solo self-employed may be hired by multiple enterprises in one year. Thus, the number of solo self-employed working for large enterprises is much less than the number of hires would suggest. Thus, to estimate the number of solo self-employed enterprises in a certain size category, the number of hires by enterprises in that category is divided by the number of hires per solo self-employed in that category. The underlying assumption is that solo self-employed do not specialize in working for large or small enterprises only. In formula, the number of solo self-employed working for large enterprises is estimated as follows, where the Dutch split of hires by firm size is assumed to apply to all EU Member States[114]:

N = N large enterprises x N hires per large enterprise / N hires per solo self-employed

Unfortunately, Eurostat only distinguishes the size classes 0-9, 10-19, 20-49, 50-249 and 250+ employed persons. Depending on the threshold, the number of solo self-employed excluding farmers, shop owners and restaurant owners and not working through platforms who would be allowed to bargain collectively varies from (see Table 14):

- 101 thousand with a cut-off of 250 employees (see table below, row EU and column 250+) up to
- 1.135 million with a cut-off of 10 employees (total column minus 0-9 column).

The latter number can also be found by adding up the numbers of self-employed working for firms with 10-19, 20-49, 50-249 and 250+ employees, respectively. With the lowest cut-off for firm size, 8% of the relevant solo self-employed not working through platforms would be allowed to bargain collectively.

114 The total number of hires is country-specific, however only for the Netherlands a split by company size is available. The application of the Dutch split by firm size to all EU Member States only implies that the number of hires of solo self-employed is assumed to increase less than proportionally by firm size in a similar way as in the Netherlands, which is judged to be a reasonable assumption.

Table 14 **Number of solo self-employed not working through platforms, by size category of the firm hiring them (year 2019)**

	0-9	10-19	20-49	50-249	250+	Total	% covered by 10+ cut-off
EU	12,172,692	389,089	375,110	270,418	100,767	13,308,076	9%
AT	147,383	8,919	9,645	6,634	2,619	175,200	16%
BE	343,366	6,990	8,003	5,522	2,318	366,200	6%
BG	100,779	3,234	4,229	3,249	908	112,400	10%
CY	30,023	1,043	1,058	879	197	33,200	10%
CZ	559,297	8,803	10,463	9,089	3,738	591,390	5%
DE	1,457,663	121,694	122,696	87,703	31,245	1,821,002	20%
DK	88,961	4,088	5,631	4,172	1,347	104,200	15%
EE	30,944	1,088	1,376	1,094	298	34,800	11%
ES	1,215,413	33,393	31,254	17,564	6,706	1,304,330	7%
FI	157,612	6,367	6,797	5,260	1,854	177,890	11%
FR	1,400,107	24,791	27,733	19,958	8,212	1,480,800	5%
GR	371,434	10,731	7,900	4,188	1,096	395,349	6%
HR	43,058	1,693	1,835	1,367	546	48,500	11%
HU	180,719	4,218	4,537	3,387	1,239	194,100	7%
IE	128,728	4,189	5,166	3,920	1,298	143,300	10%
IT	2,381,316	66,227	46,453	31,730	13,754	2,539,480	6%
LT	62,917	1,601	2,053	1,647	483	68,700	8%
LU	9,362	496	604	521	217	11,200	16%
LV	33,762	1,234	1,492	1,129	283	37,900	11%
MT	17,843	602	609	506	166	19,725	10%
NL	884,349	30,511	17,953	15,685	5,423	953,920	7%
PL	928,070	18,471	22,977	18,156	6,926	994,600	7%
PT	271,974	5,428	6,081	4,307	1,210	289,000	6%
RO	805,384	14,180	17,553	13,488	4,945	855,550	6%
SE	214,958	5,237	6,395	4,960	2,049	233,600	8%
SI	52,771	1,168	1,250	1,123	389	56,700	7%
SK	254,496	2,696	3,367	3,179	1,302	265,040	4%

Sources: Eurostat Labour Force Survey 2019, Eurostat LFS 2017 ad hoc module on self-employed, Ecorys (2010)

Using a cut-off of 10 employees for firms hiring solo self-employed, the number of solo self-employed not working through platforms that is estimated to be affected by policy option 2 is 1.135 million in 2019, increasing to 1.197 million in 2030 (Table 15).

Table 15 Number of solo self-employed not working through platforms and hired by firms with 10+ employees

	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
EU	1,135,384	1,141,026	1,146,668	1,152,310	1,157,952	1,163,594	1,169,235	1,174,877	1,180,519	1,186,161	1,191,803	1,197,445
AT	27,817	28,127	28,436	28,746	29,055	29,365	29,675	29,984	30,294	30,603	30,913	31,223
BE	22,834	23,294	23,753	24,213	24,673	25,133	25,593	26,053	26,513	26,972	27,432	27,892
BG	11,621	11,835	12,050	12,264	12,479	12,693	12,908	13,122	13,337	13,551	13,766	13,980
CY	3,177	3,219	3,261	3,302	3,344	3,386	3,428	3,470	3,512	3,554	3,595	3,637
CZ	32,093	32,405	32,716	33,027	33,339	33,650	33,961	34,273	34,584	34,895	35,207	35,518
DE	363,339	359,902	356,465	353,028	349,591	346,154	342,718	339,281	335,844	332,407	328,970	325,533
DK	15,239	15,305	15,371	15,436	15,502	15,568	15,634	15,700	15,765	15,831	15,897	15,963
EE	3,856	3,913	3,969	4,026	4,083	4,140	4,196	4,253	4,310	4,367	4,424	4,480
ES	88,917	90,213	91,509	92,805	94,102	95,398	96,694	97,990	99,286	100,582	101,878	103,174
FI	20,278	20,486	20,694	20,902	21,110	21,318	21,526	21,734	21,942	22,150	22,358	22,566
FR	80,693	82,358	84,024	85,689	87,355	89,020	90,686	92,351	94,016	95,682	97,347	99,013
GR	23,915	23,926	23,938	23,949	23,960	23,972	23,983	23,994	24,006	24,017	24,028	24,040
HR	5,442	5,412	5,383	5,353	5,324	5,295	5,265	5,236	5,206	5,177	5,147	5,118
HU	13,381	13,722	14,062	14,402	14,743	15,083	15,424	15,764	16,104	16,445	16,785	17,126
IE	14,572	14,617	14,661	14,706	14,750	14,795	14,839	14,884	14,928	14,973	15,017	15,062
IT	158,164	158,780	159,397	160,013	160,630	161,247	161,863	162,480	163,096	163,713	164,330	164,946
LT	5,783	5,899	6,015	6,130	6,246	6,362	6,478	6,593	6,709	6,825	6,941	7,056
LU	1,838	1,879	1,920	1,961	2,002	2,043	2,084	2,125	2,166	2,207	2,248	2,289
LV	4,138	4,191	4,245	4,298	4,351	4,404	4,457	4,511	4,564	4,617	4,670	4,724
MT	1,882	1,927	1,973	2,018	2,063	2,109	2,154	2,199	2,245	2,290	2,335	2,381
NL	69,571	70,603	71,635	72,667	73,699	74,731	75,763	76,795	77,827	78,859	79,891	80,923
PL	66,530	68,120	69,710	71,301	72,891	74,481	76,072	77,662	79,252	80,843	82,433	84,023
PT	17,026	17,284	17,543	17,801	18,060	18,318	18,576	18,835	19,093	19,352	19,610	19,869
RO	50,166	50,256	50,346	50,436	50,526	50,616	50,707	50,797	50,887	50,977	51,067	51,157
SE	18,642	18,746	18,851	18,956	19,061	19,165	19,270	19,375	19,480	19,584	19,689	19,794
SI	3,929	3,988	4,047	4,106	4,164	4,223	4,282	4,341	4,400	4,459	4,518	4,577
SK	10,544	10,620	10,696	10,772	10,848	10,924	11,000	11,076	11,152	11,228	11,305	11,381

Sources: see footnote to previous table. Extrapolation by Ecorys

Adding the FTE of platform workers (Table 10) and the number of solo self-employed working for firms with 10 or more employees (Table 15) gives the number of persons affected by policy option 2 with a cut-off threshold of 10 employees (see Table 16 below), and a lower number that is closer to the number of platform workers if a greater cut-off threshold is used. Enterprises with fewer than 10 employees, so-called micro-enterprises, are about 90% of the business population in most business sectors. Sectors were less than half of the business is a micro-enterprise and the majority of solo self-employed are likely to be allowed to bargain collectively are (at the EU level, figures of 2018, based on Eurostat Structural Business Indicators):

- Architecture and engineering (21%)
- Rental and leasing activities (25%)
- Employment activities (26%)
- Manufacturing of military fighting vehicles (32%)
- Travel agencies, tour operators and related (34%)

Thus, the majority of solo self-employed hired in the cultural sector (artists, journalists), in transport (taxi drivers, truck drivers), seasonal workers in agriculture, lawyers, construction workers and many others would still not be allowed to bargain collectively because they are hired by enterprises with less than 10 employees. The only large groups of solo self-employed who are generally hired by large companies are architects, and people in medical professions who are hired by hospitals and care providers.

Table 16 Total number of platform workers and solo self-employed affected by policy option 2, step 1

	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
EU	13,146,961	14,571,797	15,293,795	17,421,469	18,846,305	20,271,141	21,695,976	21,701,618	21,707,260	21,712,902	21,718,544	21,724,186
AT	254,916	236,702	207,202	234,612	253,104	271,914	291,036	292,075	293,108	294,064	295,107	296,190
BE	276,908	307,598	323,236	368,967	400,306	431,939	463,853	465,516	467,141	468,703	470,340	472,003
BG	191,156	218,458	234,183	264,808	284,233	303,325	322,035	319,151	316,987	315,083	313,033	311,289
CY	31,094	38,226	43,471	49,853	54,300	58,790	63,354	63,710	64,075	64,490	64,926	65,363
CZ	216,542	263,577	298,631	337,338	362,682	388,225	413,889	413,556	413,181	412,969	412,865	412,604
DE	2,538,921	2,438,712	2,234,703	2,515,424	2,702,020	2,887,700	3,069,845	3,062,821	3,055,022	3,047,176	3,040,541	3,034,092
DK	164,772	156,323	140,460	158,841	171,215	183,891	196,865	197,308	197,789	198,218	198,647	199,059
EE	33,775	36,916	38,273	43,395	46,818	50,248	53,637	53,691	53,713	53,747	53,814	53,831
ES	2,036,674	2,208,216	2,265,286	2,608,968	2,846,433	3,082,877	3,321,405	3,339,302	3,356,187	3,369,504	3,382,117	3,396,497
FI	144,704	206,812	258,760	293,800	317,005	340,208	363,516	363,306	363,207	363,167	363,434	363,782
FR	1,467,549	1,578,853	1,611,478	1,842,210	1,997,721	2,154,505	2,313,086	2,317,045	2,321,711	2,326,585	2,332,847	2,339,306
GR	300,330	328,855	340,893	386,901	417,212	447,591	477,942	476,764	475,640	474,876	474,020	473,022
HR	86,897	96,153	100,520	114,042	122,724	131,429	139,877	138,955	138,142	137,277	136,371	135,408
HU	274,992	363,094	433,244	496,044	536,922	577,919	618,943	617,398	615,875	614,545	611,889	608,708
IE	148,873	133,102	110,320	126,283	137,747	149,448	161,365	163,266	165,108	166,947	168,766	170,566
IT	1,818,330	2,078,013	2,238,604	2,545,476	2,752,309	2,960,328	3,171,851	3,175,747	3,179,828	3,184,661	3,188,624	3,191,594
LT	66,816	70,264	70,188	79,662	85,711	91,419	96,661	95,744	94,888	94,158	93,498	92,846
LU	18,348	17,994	16,601	19,037	20,796	22,600	24,450	24,733	25,012	25,276	25,540	25,792
LV	57,282	70,626	80,414	91,232	97,858	104,261	110,313	109,270	108,230	107,147	106,021	104,869
MT	16,141	16,474	16,006	18,435	20,171	21,920	23,665	23,904	24,160	24,424	24,687	24,968
NL	737,771	803,390	830,093	945,414	1,023,478	1,102,219	1,181,106	1,183,285	1,185,340	1,187,338	1,189,541	1,191,927
PL	920,908	1,272,860	1,562,392	1,783,361	1,926,629	2,068,820	2,210,105	2,203,206	2,196,129	2,189,899	2,182,537	2,174,970
PT	307,957	352,391	378,658	432,612	468,598	503,973	538,890	537,373	535,620	533,822	532,538	531,189
RO	542,076	618,685	665,756	753,530	809,801	865,032	916,881	909,518	902,474	895,826	889,236	881,292
SE	299,880	386,184	454,297	521,950	568,914	616,743	665,692	670,488	675,507	680,840	686,516	692,468
SI	51,203	72,055	89,634	102,824	111,587	120,278	128,840	128,672	128,620	128,510	128,430	128,408
SK	142,147	201,263	250,490	286,452	310,008	333,540	356,873	355,813	354,568	353,649	352,661	352,142

Source: sum of Table 10 and Table 15

No data are available to indicate exactly how many of which types of self-employed with weak bargaining would be left out if self-employed working for enterprises with less than 10 employees are excluded from the right of collective bargaining. The largest proportions (94-98%) of enterprises with less than 10 employees are observed in electricity providers, construction, real estate and professional services, but self-employed are less likely to have weak positions in those sectors. Sectors where between 89% and 94% of the enterprises have less than 10 employees include trade, transport, accommodation and food services and administrative services. Agriculture is another sector where almost all enterprises have fewer than 10 employees, although the numbers may increase sharply including seasonal workers. This implies that most seasonal agricultural workers, shop assistants, stock clerks, taxi and truck drivers, waiters, hotel room cleaners, and data typists would be excluded from collective bargaining with the company that hires them.

Thus, even though the size of the company hiring the solo self-employed is indicative of the relative bargaining positions, and although the size criterion would exclude the overwhelming majority of large groups of high-skilled self-employed including those in liberal professions, the size criterion is not very discriminative to include lower-skilled self-employed who generally have weak bargaining positions.

Eurostat does not publish a distribution of enterprises by turnover size or gross value added, but it does publish average values of these by category of employee numbers. The average values vary between countries, which depend partly on purchasing power parities (products cost on average more in the west of Europe than in the east) and partly on the business structure, for example turnover per employee is on average higher in manufacturing, trade and financial services than in agriculture, accommodation and foodservices and transport. Excluding financial services, the table below indicates the average turnover and value added for enterprises with 0-9 and 10-19 employees. The average annual turnover varies from about EUR 100,000 in the east of Europe to about EUR 400,000 in the northwest, with roughly ten times as high average values in enterprises with 10-19 employees. In terms of gross value added the differences are less pronounced (see table below).

Table 17 Average turnover and gross value added in enterprises with 0-9 and 10-19 employees

	0-9 employees		10-19 employees	
	Turnover	GVA	Turnover	GVA
EU	198,073	57,922	2,050,928	556,824
BG, CZ, GR, HR, HU, LT, LV, PL, PT, RO, SI, SK	113,191	25,235	1,323,232	286,774
CY, DE, EE, ES, FR, IT	227,445	64,862	2,091,447	597,811
AT, BE, DK, FI, IE, LU, MT, NL, SE	407,440	122,683	4,078,282	814,549

Source: Eurostat Structural Business Statistics

3.4.5 Number of self-employed excluding in liberal professions (option 3, step 1)

The third policy option would affect all solo self-employed except those in liberal professions. Because precise figures are not available, we approximate the number of solo self-employed in liberal professions with the number of solo self-employed in the occupational category of professionals (see Section 3.2.2 and Table 5) This results in an estimate of 4.4 million solo self-employed in liberal professions in 2019, meaning that 8.9 million out of 13.3 million solo self-employed not working through platforms would be allowed to bargain collectively by the third policy option in 2020. For each Member State, their numbers up to 2030 are projected by a linear extrapolation of the trend in 2011-2019 (see table below).

Table 18 Solo self-employed in liberal professions not working through platforms

	2011	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
EU	3,468,400	4,415,600	4,534,225	4,652,650	4,771,075	4,889,500	5,007,925	5,126,350	5,244,775	5,363,200	5,481,625	5,600,050	5,718,475
AT	57,900	73,500	75,450	77,400	79,350	81,300	83,250	85,200	87,150	89,100	91,050	93,000	94,950
BE	114,300	173,300	180,675	188,050	195,425	202,800	210,175	217,550	224,925	232,300	239,675	247,050	254,425
BG	23,600	40,200	42,275	44,350	46,425	48,500	50,575	52,650	54,725	56,800	58,875	60,950	63,025
CY	7,400	10,900	11,338	11,775	12,213	12,650	13,088	13,525	13,963	14,400	14,838	15,275	15,713
CZ	87,600	133,500	139,238	144,975	150,713	156,450	162,188	167,925	173,663	179,400	185,138	190,875	196,613
DE	831,700	693,900	676,675	659,450	642,225	625,000	607,775	590,550	573,325	556,100	538,875	521,650	504,425
DK	32,700	36,300	36,750	37,200	37,650	38,100	38,550	39,000	39,450	39,900	40,350	40,800	41,250
EE	4,500	8,600	9,113	9,625	10,138	10,650	11,163	11,675	12,188	12,700	13,213	13,725	14,238
ES	280,400	432,500	451,513	470,525	489,538	508,550	527,563	546,575	565,588	584,600	603,613	622,625	641,638
FI	37,800	52,400	54,225	56,050	57,875	59,700	61,525	63,350	65,175	67,000	68,825	70,650	72,475
FR	359,800	604,300	634,863	665,425	695,988	726,550	757,113	787,675	818,238	848,800	879,363	909,925	940,488
GR	143,100	144,600	144,788	144,975	145,163	145,350	145,538	145,725	145,913	146,100	146,288	146,475	146,663
HR	9,100	7,000	6,738	6,475	6,213	5,950	5,688	5,425	5,163	4,900	4,638	4,375	4,113
HU	38,500	78,000	82,938	87,875	92,813	97,750	102,688	107,625	112,563	117,500	122,438	127,375	132,313
IE	39,900	43,400	43,838	44,275	44,713	45,150	45,588	46,025	46,463	46,900	47,338	47,775	48,213
IT	721,600	800,800	810,700	820,600	830,500	840,400	850,300	860,200	870,100	880,000	889,900	899,800	909,700
LT	4,100	15,100	16,475	17,850	19,225	20,600	21,975	23,350	24,725	26,100	27,475	28,850	30,225
LU	4,700	6,700	6,950	7,200	7,450	7,700	7,950	8,200	8,450	8,700	8,950	9,200	9,450
LV	7,500	11,400	11,888	12,375	12,863	13,350	13,838	14,325	14,813	15,300	15,788	16,275	16,763
MT	1,100	4,900	5,375	5,850	6,325	6,800	7,275	7,750	8,225	8,700	9,175	9,650	10,125
NL	275,300	388,500	402,650	416,800	430,950	445,100	459,250	473,400	487,550	501,700	515,850	530,000	544,150
PL	193,200	383,400	407,175	430,950	454,725	478,500	502,275	526,050	549,825	573,600	597,375	621,150	644,925
PT	55,000	90,100	94,488	98,875	103,263	107,650	112,038	116,425	120,813	125,200	129,588	133,975	138,363
RO	25,400	37,700	39,238	40,775	42,313	43,850	45,388	46,925	48,463	50,000	51,538	53,075	54,613
SE	70,300	80,800	82,113	83,425	84,738	86,050	87,363	88,675	89,988	91,300	92,613	93,925	95,238
SI	12,200	19,000	19,850	20,700	21,550	22,400	23,250	24,100	24,950	25,800	26,650	27,500	28,350
SK	29,700	45,000	46,913	48,825	50,738	52,650	54,563	56,475	58,388	60,300	62,213	64,125	66,038

Source: Eurostat (2011, 2019), extrapolation up to 2030 by Ecorys

Based on COLLEEM data, platform workers in the occupational category of professionals account for 35% of the platform workers in 2017 at the EU level. Thus, a full-time equivalent of 4.2 million platform workers in 2019 are estimated to provide professional services and would not be allowed to bargain collectively. The other 7.8 million (who are not working in liberal professions) out of 12.0 million platform workers would be allowed to bargain collectively by the third policy option in 2020. This data is not available at country level, and hence the share of professional services in platform work is assumed to be 35% for all Member States. The trend up to 2030 is assumed to be the same as for solo self-employed in liberal professions not working through platforms, for each Member State (see Table 19).

Table 19 Platform workers in liberal professions

	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
EU	4,204,052	4,314,047	4,424,043	4,534,039	4,644,034	4,754,030	4,864,026	4,974,021	5,084,017	5,194,013	5,304,008	5,414,004
AT	79,485	81,594	83,702	85,811	87,920	90,029	92,137	94,246	96,355	98,464	100,573	102,681
BE	88,926	92,710	96,495	100,279	104,063	107,848	111,632	115,416	119,201	122,985	126,770	130,554
BG	62,837	66,081	69,324	72,568	75,811	79,055	82,298	85,542	88,785	92,029	95,272	98,516
CY	9,771	10,163	10,555	10,947	11,340	11,732	12,124	12,516	12,908	13,301	13,693	14,085
CZ	64,557	67,331	70,106	72,880	75,655	78,429	81,204	83,978	86,753	89,527	92,302	95,076
DE	761,454	742,552	723,650	704,748	685,846	666,944	648,042	629,140	610,239	591,337	572,435	553,533
DK	52,336	52,985	53,634	54,283	54,932	55,580	56,229	56,878	57,527	58,176	58,824	59,473
EE	10,472	11,096	11,720	12,344	12,968	13,592	14,216	14,840	15,464	16,088	16,712	17,336
ES	681,715	711,683	741,651	771,618	801,586	831,554	861,522	891,490	921,458	951,426	981,394	1,011,361
FI	43,549	45,066	46,583	48,100	49,616	51,133	52,650	54,167	55,683	57,200	58,717	60,233
FR	485,400	509,949	534,498	559,047	583,596	608,145	632,694	657,243	681,793	706,342	730,891	755,440
GR	96,745	96,871	96,996	97,121	97,247	97,372	97,498	97,623	97,749	97,874	98,000	98,125
HR	28,509	27,440	26,371	25,302	24,233	23,164	22,095	21,026	19,956	18,887	17,818	16,749
HU	91,564	97,360	103,156	108,952	114,748	120,544	126,340	132,136	137,933	143,729	149,525	155,321
IE	47,005	47,479	47,953	48,427	48,901	49,374	49,848	50,322	50,796	51,270	51,744	52,217
IT	581,058	588,242	595,425	602,608	609,792	616,975	624,159	631,342	638,526	645,709	652,892	660,076
LT	21,362	23,307	25,252	27,197	29,142	31,087	33,033	34,978	36,923	38,868	40,813	42,759
LU	5,779	5,994	6,210	6,426	6,641	6,857	7,073	7,288	7,504	7,719	7,935	8,151
LV	18,600	19,396	20,191	20,987	21,782	22,577	23,373	24,168	24,964	25,759	26,554	27,350
MT	4,991	5,474	5,958	6,442	6,926	7,409	7,893	8,377	8,861	9,345	9,828	10,312
NL	233,870	242,388	250,906	259,424	267,942	276,460	284,978	293,496	302,014	310,532	319,050	327,568
PL	299,032	317,576	336,119	354,662	373,205	391,749	410,292	428,835	447,379	465,922	484,465	503,008
PT	101,826	106,785	111,743	116,702	121,660	126,619	131,577	136,536	141,494	146,453	151,411	156,370
RO	172,169	179,190	186,212	193,233	200,254	207,276	214,297	221,319	228,340	235,362	242,383	249,405
SE	98,433	100,032	101,631	103,230	104,829	106,428	108,027	109,626	111,225	112,824	114,423	116,022
SI	16,546	17,286	18,026	18,767	19,507	20,247	20,987	21,727	22,468	23,208	23,948	24,688
SK	46,061	48,019	49,976	51,934	53,891	55,849	57,807	59,764	61,722	63,679	65,637	67,595

Source: COLLEEM I and II data (2017, 2018), extrapolation up to 2030 by Ecorys

The number of persons who would be allowed to bargain collectively by policy option 3 is:

- the FTE of platform workers (Table 10) minus the FTE of platform workers in liberal professions (Table 19) plus
- the number of solo self-employed not working through platforms or selling products (adjusted total in Table 11) minus those in liberal professions (Table 18).

Assuming as before that solo self-employed all work full-time (although in reality 80% works fulltime), the FTE of people who are allowed to bargain collectively is estimated at 17.6 million in 2019 and is projected to increase to 24.1 million in 2030 (see Table 20).

Table 20 Number of persons (platform workers and solo self-employed not working through platforms) in policy option 3

	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
EU	17,647,201	18,127,424	18,733,785	20,745,821	22,055,019	23,364,218	24,673,416	24,563,421	24,453,425	24,343,429	24,233,434	24,123,438
AT	264,915	230,632	198,714	223,705	239,779	256,170	272,874	271,494	270,109	268,647	267,272	265,936
BE	417,048	391,869	403,263	444,750	471,844	499,233	526,903	524,322	521,703	519,021	516,413	513,832
BG	205,498	214,817	227,084	254,251	270,218	285,852	301,104	294,762	289,140	283,778	278,270	273,068
CY	43,946	47,581	52,392	58,340	62,354	66,409	70,540	70,461	70,392	70,374	70,375	70,378
CZ	623,681	627,469	659,437	695,058	717,316	739,773	762,351	758,933	755,471	752,174	748,984	745,637
DE	2,403,431	2,446,135	2,264,465	2,567,524	2,776,459	2,984,479	3,188,962	3,204,277	3,218,816	3,233,310	3,249,013	3,264,903
DK	168,696	156,383	139,806	157,471	169,132	181,092	193,352	193,080	192,847	192,561	192,276	191,973
EE	49,748	48,620	49,297	53,738	56,480	59,229	61,937	61,311	60,651	60,004	59,391	58,727
ES	2,289,972	2,297,162	2,322,969	2,635,386	2,841,588	3,046,767	3,254,032	3,240,665	3,226,286	3,208,339	3,189,687	3,172,804
FI	220,967	268,575	318,798	352,113	373,594	395,072	416,655	414,720	412,896	411,132	409,674	408,297
FR	2,022,456	1,893,608	1,900,019	2,104,536	2,233,832	2,364,402	2,496,769	2,474,513	2,452,964	2,431,624	2,411,671	2,391,916
GR	431,919	458,994	470,896	516,767	546,941	577,183	607,398	606,083	604,822	603,922	602,929	601,793
HR	92,346	104,538	110,003	124,624	134,405	144,208	153,755	153,932	154,216	154,450	154,643	154,778
HU	325,647	373,050	437,064	493,727	528,468	563,329	598,217	590,535	582,876	575,409	566,616	557,299
IE	190,695	171,344	148,043	163,488	174,434	185,617	197,015	198,398	199,721	201,042	202,343	203,624
IT	2,896,988	3,079,571	3,232,362	3,531,434	3,730,467	3,930,686	4,134,409	4,130,505	4,126,787	4,123,819	4,119,982	4,115,152
LT	104,272	96,033	93,897	101,309	105,298	108,945	112,125	109,147	106,231	103,440	100,719	98,006
LU	17,232	14,871	13,221	15,400	16,904	18,451	20,044	20,071	20,093	20,100	20,107	20,103
LV	64,943	74,027	82,966	92,935	98,713	104,267	109,471	107,579	105,690	103,758	101,784	99,783
MT	27,893	24,372	23,375	25,275	26,482	27,702	28,918	28,627	28,354	28,089	27,823	27,575
NL	1,112,950	1,069,969	1,087,122	1,192,893	1,261,407	1,330,598	1,399,935	1,392,564	1,385,069	1,377,517	1,370,170	1,363,005
PL	1,356,746	1,522,140	1,791,538	1,992,373	2,115,507	2,237,565	2,358,716	2,331,684	2,304,474	2,278,109	2,250,613	2,222,913
PT	423,106	431,610	452,660	501,397	532,166	562,324	592,024	585,290	578,320	571,305	564,803	558,238
RO	1,149,892	1,208,626	1,248,586	1,329,249	1,378,408	1,426,527	1,471,265	1,456,790	1,442,634	1,428,875	1,415,173	1,400,118
SE	346,105	421,518	487,927	553,876	599,137	645,262	692,508	695,600	698,915	702,544	706,517	710,765
SI	75,228	89,331	106,111	118,502	126,466	134,358	142,120	141,154	140,303	139,394	138,515	137,693
SK	320,882	364,577	411,771	445,699	467,221	488,719	510,019	506,925	503,646	500,694	497,672	495,119

3.4.6 Self-employed who already can bargain collectively (step 2)

As discussed in Section 2.5, some Member States provide that solo self-employed may bargain collectively on the basis that they are considered economically dependent, that they work in a specific sector, belong to a specific categories or need to reach a certain level of income. In these situations, it could be argued that a clarification at EU level would not change the situation because the Member State already provided access to collective bargaining. It could also be argued that a clarification at EU level would still help the solo self-employed because firms hiring solo self-employed are then less likely to challenge the Member State's measures.

With regard to national measures as to when solo self-employed can bargain collectively, one could argue that these national measures are uncertain due to EU competition law and that for the purpose of the impact assessment they should be regarded as non-existent. One could also argue that where national measures currently provides that solo self-employed are not hindered from bargaining collectively, the removal of the chilling effect of EU competition law does not affect their rights as provided by the national measure.

Under the first line of argument, the group of persons who could gain collective bargaining rights consists of all solo self-employed and platform workers (Table 12) since all solo self-employed face uncertainty about the legality of bargaining collectively under EU competition law, even if national measures entitle them to do so. The variant under this first line of argument is called the "**chilling effect variant**". Under the second (national enforcement) line of argument, the group of persons who would have access to collective bargaining rights consists of certain groups of solo self-employed who would not be hindered from bargaining collectively on the basis of the measures adopted at national level. This alternative variant is estimated in the second step. The variant under this second line of argument is called the "**national enforcement variant**".

In the impact assessment, all **platform workers** are assumed to be affected in most policy options because the policy options would remove the chilling effect of competition law. The exception is policy option 3 which will not allow platform workers in liberal professions to bargain collectively.

The remainder of this section discussed the interaction of the policy options with current provisions in national law which allow certain groups of **solo self-employed** to bargain collectively, meaning that national authorities

currently do not enforce competition law on those specific groups of self-employed. We discuss the impacts by country cluster as defined in Chapter 2.

Cluster 1: all solo self-employed are currently allowed to bargain collectively

The only Member State in this cluster is Poland, where the 2018 Act on Trade Unions allows solo self-employed to bargain collectively. In Poland, all 1 million solo self-employed are in principle already allowed to bargain collectively. However, no collective agreements of solo self-employed have been identified in Poland so far. The main reason seems to be the low-cost strategy of businesses. For example, a report on social conditions in logistics in Europe states that although false self-employment among truck drivers is losing importance due to a lack of skilled truck drivers, false self-employment is still rife in parcel deliveries.[115] Nevertheless, although competition on low prices was the driving force behind circumventing labour law on employment contracts, initiatives are considered to improve working conditions, such as the Responsible Trucking Collaborative Platform.[116] Its ambition is to improve working conditions in general, including collective bargaining. Although this initiative does not originate in Poland, it could in the future improve the working conditions of Polish truckers hired through Polish subsidiary firms.

In policy options 1, 2 and 4, the EU initiative would remove the chilling effect for all platform workers. However, option 1 would also clarify that solo self-employed will not be allowed to bargain collectively. Thus, self-employed truckers and other solo self-employed (not working through platforms) would no longer have the perspective to bargain collectively in the future in this option. In option 2, only solo self-employed working for clients with less than 10 employees will no longer have the perspective to bargain collectively. In option 3, only those in liberal professions (both platform workers and solo self-employed) will cease to have the perspective to bargain collectively. Only in policy option 4 all platform workers and solo self-employed will continue to have the perspective of collective bargaining.

It should be noted that other Member States have created safe harbours for specific groups of solo self-employed to bargain collectively. Hence Poland could create similar safe harbours. However, the impact assessment does not anticipate future policies, and hence groups of people mentioned in the previous paragraph will have a reduced perspective of collective bargaining in policy options 1, 2 and 3.

Cluster 2: no solo self-employed are currently allowed to bargain collectively

This cluster includes 15 Member States: Belgium, Bulgaria, Croatia, Cyprus, Czechia, Denmark, Estonia, Finland, Hungary, Latvia, Lithuania, Luxembourg, Malta, Romania and Slovakia. In this cluster, it is considered that platform workers and solo self-employed are not entitled to bargain collectively[117] therefore depending on whether they will fit into the definition of one option or the other, they will benefit from the initiative.

Cluster 3: economically dependent solo self-employed are currently allowed to bargain collectively

This cluster consists of five Member States: Germany, Portugal, Slovenia, Spain and Sweden. These countries allow (some) solo self-employed to bargain collectively on the basis of an economic dependency criterion e.g. if they depend for more than a certain share of income on one client.[118]

Numbers of economically dependent solo self-employed according to national criteria are not available. As the next-best alternative, we use Eurostat data on economically dependent solo self-employed. Under the Eurostat definition, solo self-employed are economically dependent if they work for one client, or for more clients but 75% or more of income is earned through one client.[119] Portugal and Sweden do not quantify a dependency

[115] Verdi (2019) Social conditions in logistics in Europe: Focus on road transport, https://psl.verdi.de/++file++5d00b20c9194fb1d8bbc127f/download/Social%20Conditions%20Logistics%20in%20Europe.pdf.

[116] See https://www.raben-group.com/news/news-details/raben-joins-responsible-trucking-collaborative-platform

[117] See Annex 5 for more details.

[118] See Annex 5 for more details

[119] In the Eurostat data, economic dependency is defined as at least 75% of income coming from one client. Three Member States used different thresholds for income dependency, but they do not belong to cluster 3.

threshold, but for Portugal, since the benefit to collective bargaining seems to have been effectively granted only to economically-dependent workers in the case of home working or handicrafts persons, that number is probably an over estimation.[120] Spain uses the same dependency threshold of 75% as Eurostat and Slovenia a similar threshold at 80%, but Germany uses a 50% threshold. Thus, the Eurostat number underestimates the number of economically dependent self-employed in Germany, and is arguably the best estimate for the other countries in this cluster.

In Germany, the threshold for journalists and artists has been reduced further to 33%. This threshold is assess to be sufficiently low to practically include most journalists and artists. Thus estimated numbers of solo self-employed journalists and artists were added to the economically dependent self-employed in general (based on the high 75% Eurostat threshold). The number of freelance journalists in Germany is estimated at 26,000[121] but the number of people in freelance journalisms as a main occupation is 9,600.[122] The latter is considered more relevant for this study, because for example columnists may be professors, sportsmen or other people with a different main occupation. The number of freelance artists is estimated at 96,000, namely 24,000 freelance photographers, 38,000 freelance musicians, 17,000 freelance actors and dancers, and 17,000 theatre, film and Tv freelancers.[123] The freelance journalists and artists would no longer be allowed to bargain collectively in policy option 3; they are both part of the ISCO occupational category of professionals, literally defined as liberal professions in Germany (see Table 5).

Germany further allows home workers to bargain collectively. However, these home workers seem mostly craft workers who (on a commission basis) sell their products and are thus arguably out of scope of the initiative [124]. German competition law prohibits any agreement that limits competition in Article 1, but Article 3 provides that this prohibition does not apply to small companies if the agreement does not significantly affect competition.[125] This bagatelle exception is ignored in the calculations (like for the Netherlands, discussed under cluster 5 below).

For Portugal, the law currently only clearly allows the solo self-employed in handicraft home working to bargain collectively. In line with Austria and Germany, they would arguably out of scope of the EU initiative because they sell goods rather than services. However, it could also be argued that the law potentially allows all economically dependent self-employed to bargain collectively in the near future (2030). For this reason, all economically dependent self-employed have been included as those potentially allowed to bargain collectively in the national enforcement variant.

A Slovenian collective agreement for professional journalists also applies to freelance journalists. The collective agreement dates from 1991 (before the accession to the EU) and seems never to have been questioned. The freelance journalists are not separately included among those currently allowed to bargain collectively, because it is not clear to what extent they would already fall under the economic dependency criterion.

Collective bargaining for economically dependent self-employed will continue to be allowed for platform workers and solo self-employed under policy options 1 and 2. In policy option 3, the economically dependent in liberal professions will no longer be covered. However, apart from the journalists and artists, the number of economically dependent self-employed in liberal professions is assumed to be negligible in the impact assessment calculations for other groups than journalists and artists because those in other “liberal” professions such as freelancer accountants, lawyers, architects, engineers and medical professionals are generally

[120] Germany: 50% according to Article 12a(1) of the Tarifvertragsgesetz, https://www.gesetze-im-internet.de/tvg/BJNR700550949.html, Portugal: no quantified threshold in Article 10 of law 7/2009, Slovenia: 80% according to Article 213 of the Employment Relationships Act, Spain: 75% according to Article 11 of Law 20/2007, Sweden: no quantified threshold in Section 1(2) of the Co-determination Act.

[121] Source: https://www.djv.de/startseite/info/themen-wissen/aus-und-weiterbildung/arbeitsmarkt-und-berufschancen

[122] "hauptberuflich", Source: https://journalistik.online/ausgabe-012018/die-zukunft-ist-frei/ ; https://www.tagesspiegel.de/gesellschaft/medien/studie-zu-freien-journalisten-prekaere-lage/21057764.html

[123] Source: https://www.destatis.de/DE/Presse/Pressemitteilungen/2020/04/PD20_145_216.html

[124] See the definition of homeworkers in the German Heimarbeitsgesetz, https://www.gesetze-im-internet.de/hag/BJNR001910951.html

[125] See https://www.gesetze-im-internet.de/gwb/__3.html

assumed not to be economically dependent. In policy option 4 all self-employed will be allowed to bargain collectively and nothing changes for the economically dependent self-employed.

Cluster 4: solo self-employed in certain occupations are allowed to bargain collectively

This cluster includes Austria, France, Greece, Italy, Portugal and Spain.

Austria allows freelance journalists to bargain collectively. According to various sources, the number of freelance journalists is about 900.[126] They will continue to be allowed to bargain collectively in policy options 1, 2 and 4 but not in policy option 3 because journalism is considered to be a liberal profession (see Table 5). Home workers may also bargain collectively but are not included in the impact assessment because (on a commission basis) they sell their own craft work[127].

France considers multiple groups to be employees regardless of the type of contract. France set out a framework for collective bargaining by delivery and transport platform workers, whose shares at the EU level are estimated at 15% each in the previously mentioned COLLEEM studies. Thus, 30% of the platform workers in France is assumed to be already allowed to bargain collectively. In addition, the Labour Code grants employee status regardless of the type of contract to journalists (by Article L-7112-1), performing artists (Article L-7121-3) and travelling sales representatives (Article L-7313-1). Apparently, for journalists, the right to bargain collectively in practice applies only to accredited freelance journalists, of which there are 6,550 in France.[128] The number of solo self-employed "creative and performing artists" (ISCO occupation code 265) is 49,000 according to the Labour Force Survey. The number of solo self-employed travelling sales representatives is approximated with the number of 42,000 solo self-employed "sales and purchasing agents and brokers" (ISCO code 332).[129] This overestimates the number of travelling sales representatives because some sales representatives in the Labour Force Survey data are actually office based. They would all continue to be allowed to bargain collectively, except in policy option 3 for the journalists and performing artists which are classified as liberal professions based on Table 5 (based on the ISCO classification and because these professions are literally named as liberal professions in the law of some countries). The journalists and performing artists are considered to work in liberal professions in the impact assessment calculations and would thus no longer be covered under policy option 3. Sales representatives do not belong to the ISCO group of professionals, nor would they fall under the classical definition of liberal (free-thinking) professions.

Greece recently adopted Greek law 4808/2021 law, where an employment relationship is assumed for platform workers unless platform work meets four criteria indicating a high level of worker autonomy (ability to hire subcontractors, unilaterally set the maximum number of projects, ability to provide services to others including competitors, and to determine the timeframe of services). Some of these criteria are actually met for most platform workers. According to the Ecorys survey study in selected Member States (see Section 592.6), 81% did not select that the platform determines the working hours, and 95% did not select they had no say over planning and execution of work. 96% did not select that they were not allowed to work for other clients than the platform, although 86% reporting they were covered by an exclusivity clause stating they could not work for other clients or platforms. Unfortunately, neither the survey of this study nor the COLLEEM surveys of 2017 and 2018 covered whether platform workers are allowed to subcontract their work. However, since only about 7% of the platform workers report themselves to be self-employed, it is assumed that platforms rarely allow platform workers to subcontract their work. Hence, in the alternative (national non-enforcement) variant, all platform workers in Greece are assumed not to be hindered by national authorities if they bargain collectively. The number of platform workers in liberal professions (the professionals: creative, translation, software, interactive

[126] Sources: https://www.derstandard.at/story/2000113826144/oesterreichs-redaktionen-schrumpfen ; http://www.mhw.at/cgi-bin/file.pl?id=490

[127] See the Austrian Heimarbeitsgesetz, https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10008186

[128] Source: https://europeanjournalists.org/blog/2019/02/08/uk-and-france-freelance-journalists-stand-up-for-their-rights-to-fairer-better-and-faster-pay/

[129] Source: Labour Force Survey 2018, includes 3321 Insurance representatives, 3322 Commercial sales representatives, 3323 Buyers, 3324 Trade brokers

and other professionals[130]) is estimated at 96,000, namely 35% of all platform workers based on COLLEEM data.

In addition, Greece considers tourist guides and technicians in cinema and broadcasting to be employees regardless of the contract. The number of freelance technicians in cinema and broadcasting is unknown, but the number of freelance tourist guide is estimated at 1,800.[131] The tourist guides could in general be placed under ISCO group of service workers 5113 "travel guides" but in Greece tourist guides are a regulated profession under Law 710/1977 and must hold a diploma of the School of Guides or equivalent.[132]. The tourist guides and 96,000 platform workers in the ISCO occupational group of professionals are estimated to be no longer covered in policy option 3.

Italy defines a specific type of contract that business may use to hire people, namely so-called co-co-co contracts. People with co-co-co contracts are assumed to have a continuous relation with the business that hires them, but may organize their work independently. Their rights seem to include the right to bargain collectively.[133] In 2018, according to INPS, 1.3 million people worked on a co-co-co or co-co-pro contract (the predecessor of co-co-co contracts before 2015).[134] In addition, law 101/2019 allows platform riders to bargain collectively since they are classified as semi-subordinated workers with a co-co-co contract. The number of platform workers covered by policy option 1 who are currently allowed to bargain collectively is underestimated because other platform workers may have co-co-co contracts as well. For those covered by policy option 3 and 4, we did not add the number of platform riders to the number of co-co-co contract workers to avoid double-counting. We did add the number of platform riders to the number of co-co-co contract workers estimated to work for undertakings with 10 or more employees based on the general breakdown of solo self-employed working for non-micro-enterprises, because the platform riders do not fall in that category.

The occupational breakdown of solo self-employed in Italy working on so-called co-co-co contracts, which would be helpful to identify liberal professions, is unknown. As a working assumption, it is assumed that one third of those working on a co-co-co contract in Italy works in a liberal profession, because according to Raitano (2017) 30.5% of the people on a co-co-pro contract (which were replaced by co-co-co contracts in 2015) are highly educated in 2015.[135] Since people in the occupational group of professionals generally have university education, this seems the best available approximation. Thus, 390,000 people working on a co-co-co contract would no longer be able to bargain collectively in policy option 3.

Portugal requires platforms to hire transport drivers through a system which is legally presumed to have an employment relationship with the drivers. Based on COLLEEM data, the share of transport workers among platform workers is about 15% at the EU level and the same is assumed for Portugal. Transport work is not a liberal profession so they continue to be allowed to bargain collectively in all policy options including option 3.

Spain introduced in May 2021 the legal presumption of an employment relationship for delivery platform workers unless platforms can prove that their platform workers are genuinely self-employed. They continue to be allowed to bargain collectively under the EU initiative, in all policy options including policy option 3 because food delivery riding is obviously not liberal profession. Based on 15% being delivery platform workers according to the 2017

[130] See Figure 15 in Pesole et al. (2018), Platform Workers in Europe, https://publications.jrc.ec.europa.eu/repository/bitstream/JRC112157/jrc112157_pubsy_platform_workers_in_europe_science_for_policy.pdf

[131] "Sources: 87% of tourist guides are self-employed, see https://www.feg-touristguides.com/post.php?i=covid-19-pandemic-and-next-steps-in-tourism-the-tourist-guides-perspectiv ; In 2014 there were approximately 2,000 people registered as tour guide: https://100r.org/2014/02/greece-downgrades-training-of-its-famed-tour-guides/"

[132] See Article 2 of Law 710/1977, https://www.kodiko.gr/nomothesia/document/315402/nomos-710-1977

[133] See in that sense Annex 5 and Fulton L. (2018) Trade unions protecting self-employed workers. ETUC. Brussels. Available at: https://www.etuc.org/sites/default/files/publication/file/2018-10/Trade%20unions%20protecting%20self-employed%20workers_EN.pdf

[134] See INPS (2020), https://www.inps.it/news/osservatorio-sui-lavoratori-parasubordinati-i-dati-del-2018#:~:text=Secondo%20le%20statistiche%2C%20nel%202018,796.358%20uomini%20e%20513.531%20donne). The co-co-pro contract was a predecessor of the co-co-co contract in 2015.

[135] Raitano (2017), Raitano M. 2017 "Para-subordinate workers in Italy: Extent of the phenomenon, characteristics and expected coverage by the welfare state", in OECD (2017) The Future of Social Protection, https://www.oecd-ilibrary.org/sites/9789264306943-9-en/index.html?itemId=/content/component/9789264306943-9-en

COLLEEM survey (at the EU level and also assumed for Spain), this concerns about 292,000 platform workers. The COLLEEM data include delivery workers in general (not only food delivery workers), but the number could still be an underestimate to the extent that other workers working through platforms might also fall under the Spanish economic dependency criterion[136]

Cluster 5: countries with provisions in competition authority guidelines or competition law

This cluster consists of Ireland and the Netherlands.

In **Ireland**, under the 2017 Competition Amendment Act, it was foreseen that Irish competition law shall not hinder freelance journalists, session musicians and voice-over actors to bargain collectively. The total number of professional journalists in Ireland is estimated at 1,500 in 2016.[137] An estimated 15% of the journalists in the EU and the UK were freelancer in 2005.[138] This leads to an estimate of about 225 freelance journalists. An online list of journalists includes about 60,[139] and on 23 September 2021 LinkedIn mentions 104 jobs for freelance journalists.[140] Thus, 250 freelance journalists seems a reasonable estimate. The Irish Film & Television Network, lists of voice-over actors includes 147 people.[141] LinkedIn mentioned 118 voice-acting jobs on 23 September 2021.[142] Thus, about 150 freelance voice-over actors seems a reasonable estimate. The number of freelance session musicians is harder to estimate. LinkedIn mentioned 295 jobs for music jobs on 23 September 2021.[143] Thus, for lack of better data, the number of freelance session musicians is estimated at about 600. In total, the number of freelancers currently allowed to bargain in Ireland thus add up to about 1,000 people. They would continue to be allowed to bargain collectively, except in policy option 3. as part of the ISCO classification of professionals and because journalists and artists are literally defined as liberal professions in some countries (see Table 5).

In the **Netherlands**, guidelines of the national competition authority clarify that they will not enforce competition rules against solo self-employed who reach a collective agreement in certain situations.[144] For the Netherlands, no data on the number of side-by-side workers are available, nor is the "subsistence" criterion elaborated. Presumably, the subsistence criterion relates to groups where the average income from self-employed is below the Dutch minimum income norm for a single-person household. The group of side-by-side workers is approximated with the number of economically dependent workers according to the Labour Force Survey 2016 ad hoc module (about 220,000), and the group whose income presents a subsistence risk is approximated with the number of solo self-employed with a household income below the Eurostat poverty threshold (about 106,000).[145]

Overall numbers at EU level

At the EU level, about 2.1 million platform workers are currently allowed to bargain collectively in policy option 1, mostly in Poland, France, Portugal, Spain, Italy and Greece.

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[136] See explanation of the "trabajador autónomo económicamente dependiente" – TRADE in Annex 5

[137] Source total number journalists (2016) https://osf.io/g8hrx/?action=download&version=1 ;

[138] Source 15% being freelancers (EU and UK, 2005): https://gradireland.com/sites/gradireland.com/files/public/SCG_media.pdf ;

[139] Source: https://www.localbusinesspages.ie/categories/journalists.aspx

[140] Source: https://ie.linkedin.com/jobs/freelance-journalist-jobs (23 September 2021);

[141] Source: http://iftn.ie/actors/actors_database/sublinks_static/voice_over_artists/

[142] Source: http://iftn.ie/actors/actors_database/sublinks_static/voice_over_artists/

[143] Source: https://ie.linkedin.com/jobs/music-jobs (23 September 2021)

[144] NMA (2019), Guidelines on price arrangements between self-employed workers: no action is taken to self-employed who conclude a collective agreement who (a) work "side-by-side" with employees, (b) need a collective agreement to safeguard the subsistence level, (c) their turnovers and market shares are small or (d) if the benefits outweigh the drawbacks. See https://www.acm.nl/en/publications/guidelines-price-arrangements-between-self-employed-workers

[145] Two further exceptions are ignored due to complete lack of data on self-employed: the "bagatelle" exception (the collective bargaining agreement covers very low numbers of self-employed) and the "efficiency" exception (where a minimum pay rate is necessary to guarantee a minimum quality and where it is evident that consumers would accept the expected price increase).

Including solo self-employed who are (a) economically dependent or work in certain professions and (b) who work for enterprises with 10 or more employees, this number increases to 2.5 million people in policy option 2.

Allowing all platform workers and solo self-employed to bargain collectively except those in liberal professions further increases the relevant number currently already allowed to bargain collectively to 4.5 million people in policy option 3.

Lastly, the total number of platform workers and solo self-employed who are currently allowed to bargain collectively is estimated at 5.9 million (policy option 4).

A detailed breakdown by country and policy options is given in Table 21.

Table 21 Numbers of potentially affected solo self-employed under each policy option who may already have been allowed to bargain collectively (2019)

	Cluster	Types of solo self-employed that may currently bargain collectively	Option 1	Option 2	Option 3	Option 4
EU			2,131,678	2,475,301	4,530,321	5,861,558
AT	4	Freelance journalists*		143		900
BE	2					
BG	2					
CY	2					
CZ	2					
DE	3	Economically dependent + freelance journalists and artists*		122,569	444,650	614,300
DK	2					
EE	2					
ES	3 & 4	Platform riders ; Economically dependent	292,164	317,244	660,064	660,064
FI	2					
FR	4	Delivery and transport platform workers; (accredited) journalists, performing artists and sales representatives	416,057	423,661	458,057	555,607
GR	4	Platform workers ; Tourist guides, technicians in cinemas and broadcasting	276,415	276,524	181,086	278,215
HR	2					
HU	2					
IE	5	Voice-over actors, freelance journalists, session musicians		102		1,000
IT	4	Co-co-co contracts ; co-co-co contract assumption for platform riders	249,025	329,991	910,000	1,300,000
LT	2					
LU	2					
LV	2					
MT	2					
NL	5	Side-by-side, low incomes		24,000	271,000	326,055
PL	1	All platform workers and solo self-employed	854,378	920,908	1,356,746	1,848,978
PT	3 & 4	Economically dependent, transport platform workers	43,640	48,736	121,936	130,140
RO	2					
SE	3	Economically dependent		9,768	105,687	122,400
SI	3	Economically dependent		1,656	21,096	23,900
SK	2					

Sources: see text; 2019 is the assumed year for all numbers from different sources and years. * In Austria and Germany home workers are not including because (on a commission basis) they sell their own craft work. In Germany the threshold for economic dependency is 33% for journalists and artists instead of the 75% used in Eurostat data on economically dependent solo self-employed workers. Portugal

currently allows only the economically dependent self-employed home workers to bargain collectively, however all economically dependent self-employed are included because it also seems arguable that the law may apply more broadly in the future.

Based on Eurostat 2019 data and most recent data from other sources, the percentage of platform workers and solo self-employed who is estimated not be hindered from bargaining collectively by national authorities is calculated under Table 22 below. For example, in Greece, the competition law prohibition on collective bargaining is since recently not enforced on platform workers, implying that 100% of the platform workers are currently allowed to bargain collectively under the first EU policy option. In the second EU policy option, all platform workers and a small group of economically dependent self-employed working for customers with 10 or more employees are currently allowed to bargain collectively. As a percentage of all platform workers and the total population of economically dependent self-employed this is 92.1%. For the year 2030, the same percentage will be applied to calculate those potentially affected and not currently allowed to bargain collectively. Where cells are blank, a percentage of 0% is applied (no self-employed are currently allowed to bargain collectively).In addition, national authorities currently do not hinder groups of solo self-employed from bargaining collectively, but the scope of the EU policy options may be narrower than the definition of these groups. This means that certain solo self-employed would actually remain uncertain as to whether they can bargain collectively. Indeed, they would be within the scope of the group defined at national level but outside the group defined at EU level. One could argue that for the individuals concerned, this uncertainty would even be greater due to the narrower definition at EU level. For simplicity, it is assumed that self-employed working for small firms or in liberal professions cannot be economically dependent. In practice, some of them will be economically dependent, thus the percentage of those remaining uncertain or having a greater uncertainty about their collective bargaining rights is underestimated. When self-employed in specific occupations are allowed to bargain collectively, and in the case of Poland all solo self-employed who will not be within the scope of the EU policy options 1 2 and 3, are assumed to remain uncertain or to have a greater uncertainty about their collective bargaining rights. In Poland, the number of solo self-employed working for customers with less than 10 employees who would remain uncertain or have a greater uncertainty about their collective bargaining rights in EU policy option 2 more or less equals the number of platform workers plus the number of solo self-employed working for customers with 10 or more employees, resulting in a percentage of 101%. The same solo self-employed who would remain uncertain or have a greater uncertainty about their collective bargaining rights in EU policy option 3 (compared to the national enforcement variant), would also remain uncertain or have a greater uncertainty about their collective bargaining rights in EU policy option 1. Expressed as a percentage of the number that the policy option will allow to bargain collectively, the percentage under policy option 1 (platform workers only) is naturally larger than under policy option 3 (platform workers and solo self-employed not in liberal professions). For Poland the percentage even becomes 116%, meaning that more solo self-employed would remain uncertain or have a greater uncertainty about their collective bargaining rights in policy option 1 than the number of platform workers whose collective bargaining rights the policy options will confirm.

Table 22 Percentage of platform workers and solo self-employed who national competition authorities do not hinder if they bargain collectively under each policy option, split by the total number and those would remain uncertain under the policy option

		Total % of those allowed to bargain collectively under the policy option that are also currently allowed by national authorities				% of total currently allowed to bargain collectively by national authorities but who would remain uncertain under the policy option			
	Cluster	Option 1	Option 2	Option 3	Option 4	Option 1	Option 2	Option 3	Option 4
EU		17.7%	18.8%	25.7%	23.2%				
AT	4		0.1%		0.2%			0.3%	
BE	2								
BG	2								
CY	2								
CZ	2								
DE	3 & 4		4.8%	18.5%	15.4%			7.1%	
DK	2								
EE	2								
ES	3 & 4	15%	15.6%	28.8%	20.3%				
FI	2								
FR	4	30%	28.9%	22.6%	19.4%			2.7%	
GR	4	100%	92.1%	41.9%	41.4%			22.5%	
HR	2								
HU	2								
IE	5		0.1%		0.4%			0.5%	
IT	4	15%	18.1%	31.4%	31.0%			13.5%	
LT	2								
LU	2								
LV	2								
MT	2								
NL	5		3.3%	24.3%	20.1%			4.9%	
PL	1	100%	100%	100%	100%	116.4%	100.8%	36.3%	
PT	3 & 4	15%	15.8%	28.8%	22.4%			1.9%	
RO	2								
SE	3		3.3%	30.5%	23.8%			4.8%	
SI	3 & 4		3.2%	28.0%	23.0%			3.7%	
SK	2								

Note: where cells are blank, 0% is applied (none are currently allowed to bargain collectively ; none will lose collective bargaining rights, respectively)

The variants for the policy options of platform workers and solo self-employed who are currently not allowed to bargain collectively, depending on the chilling effect view or the national non-enforcement, are given in Table 23 below. Following the chilling effect interpretation, no platform workers and solo self-employed are currently certain that collective bargaining is allowed, and the numbers in the chilling effect variant are the same as the numbers for 2030 in Table 10 (policy option 1), Table 12 (policy option 4), Table 16 (policy option 2) and Table

20 (policy option 3). Applying the percentages in Table 22 to these numbers gives the national enforcement variant in Table 23.

Table 23 Numbers of FTE of solo self-employed and platform workers who are currently not allowed to bargain collectively (year 2030)

	1. Chilling effect variant (Step 1)					2. National enforcement variant (Step 2)			
	Option 1	Option 2	Option 3	Option 4		Option 1	Option 2	Option 3	Option 4
EU	20,526,741	21,724,186	24,123,438	35,137,492	EU	16,290,031	17,033,792	17,546,854	26,352,926
AT	264,967	296,190	265,936	461,617	AT	264,967	296,024	265,936	460,585
BE	444,111	472,003	513,832	891,436	BE	444,111	472,003	513,832	891,436
BG	297,309	311,289	273,068	432,534	BG	297,309	311,289	273,068	432,534
CY	61,725	65,363	70,378	99,738	CY	61,725	65,363	70,378	99,738
CZ	377,086	412,604	745,637	1,031,589	CZ	377,086	412,604	745,637	1,031,589
DE	2,708,559	3,034,092	3,264,903	4,340,086	DE	2,708,559	2,887,618	2,660,875	3,672,988
DK	183,097	199,059	191,973	292,247	DK	183,097	199,059	191,973	292,247
EE	49,350	53,831	58,727	89,788	EE	49,350	53,831	58,727	89,788
ES	3,293,323	3,396,497	3,172,804	4,806,790	ES	2,799,324	2,867,440	2,258,272	3,831,175
FI	341,216	363,782	408,297	539,181	FI	341,216	363,782	408,297	539,181
FR	2,240,294	2,339,306	2,391,916	4,057,281	FR	1,568,206	1,663,981	1,850,182	3,271,185
GR	448,982	473,022	601,793	846,393	GR	0	37,495	349,486	495,855
HR	130,290	135,408	154,778	175,903	HR	130,290	135,408	154,778	175,903
HU	591,583	608,708	557,299	839,995	HU	591,583	608,708	557,299	839,995
IE	155,504	170,566	203,624	303,616	IE	155,504	170,449	203,624	302,523
IT	3,026,648	3,191,594	4,115,152	5,675,028	IT	2,572,651	2,612,382	2,822,503	3,918,324
LT	85,789	92,846	98,006	169,614	LT	85,789	92,846	98,006	169,614
LU	23,504	25,792	20,103	37,454	LU	23,504	25,792	20,103	37,454
LV	100,145	104,869	99,783	143,408	LV	100,145	104,869	99,783	143,408
MT	22,587	24,968	27,575	47,537	MT	22,587	24,968	27,575	47,537
NL	1,111,004	1,191,927	1,363,005	2,220,574	NL	1,111,004	1,153,153	1,031,118	1,774,226
PL	2,090,947	2,174,970	2,222,913	3,347,072	PL	0	0	0	0
PT	511,320	531,189	558,238	848,583	PT	434,622	447,126	397,358	658,156
RO	830,135	881,292	1,400,118	1,702,598	RO	830,135	881,292	1,400,118	1,702,598
SE	672,674	692,468	710,765	920,712	SE	672,674	669,913	493,726	701,817
SI	123,832	128,408	137,693	189,882	SI	123,832	124,255	99,081	146,234
SK	340,761	352,142	495,119	626,839	SK	340,761	352,142	495,119	626,839

As mentioned earlier, some groups of platform workers and solo self-employed who currently can bargain collectively without national authorities taking action, may be uncertain about whether they could do so under the policy option 3 and in Poland. Only under the EU policy option 4 would all platform workers and solo self-employed would gain clarity about their right to bargain collectively.

3.4.7 Self-employed not covered if collective bargaining is allowed (step 3)

All employees are allowed to bargain collectively but not all employees are covered by a collective agreement. The reason varies between countries. In some countries like Germany, only trade union members are covered by a collective agreement. In other countries, a collective agreement is not always automatically extended to the whole sector and remains limited to the firms who are members of the association that negotiated on their behalf.

Seven Member States generally and automatically extend collective agreements. In four of these countries, this results in a coverage rate of above 90% (Austria, Belgium, Finland and France). In the other three countries, some sectors apparently have no collective agreements that could be extended (Italy, Spain and Luxembourg). Five Member States never extend collective agreements to a whole sector (Cyprus, Denmark, Greece, Malta

and Sweden). Nevertheless, in Denmark 82% of the employees is covered by a collective agreement, because most firms are members of an association bargaining working conditions on their behalf. Situations in between are countries that rarely extend collective agreements (11 Member States), or only when a collective agreement already covers a certain percentage of employees or firms working in a sector (four Member States).

If employees are not always covered by a collective agreement, it makes sense to assume the same for self-employed. As a scenario, it is assumed that the same percentage of employees not covered by a collective agreement also applies to the solo self-employed, even if allowed to bargain collectively.

Data on the percentage of employees covered by a collective agreement is available from the ICTWSS database.[146] For five countries where this data is missing, the union density rate is used instead (see table below). The percentages in the table below are applied to all years up to 2030 and to all policy options, for both platform workers and solo self-employed not working through platforms.

Table 24 Percentage of employees covered by a collective agreement (also assumed for self-employed in all policy options)

MS	Extension of collective agreements	Union density (as % of wage earners)	Adjusted employee coverage	Assumed % self-employed covered if allowed to bargain collectively
EU				60%
AT	3	26.3	98	98%
BE	3	50.3	93	93%
BG	1	12.8	23	23%
CY	0	43.7	44	44%
CZ	1	11.5	30	30%
DE	1	16.5	54	54%
DK	0	66.5	82	82%
EE	1	4.3		4%
ES	3	13.6	68	68%
FI	3	60.3	91	91%
FR	3	8.8	94	94%
GR	0	20.2	26	26%
HR	1	20.2	45	45%
HU	1	7.9	20	20%
IE	1	24.5	34	34%
IT	3	34.4	80	80%
LT	1	7.1	7	7%
LU	3	31.8	59	59%
LV	1	11.9		12%
MT	0	44.6	50	50%
NL	2	16.4	77	77%
PL	1	12.7		13%
PT	2	15.3	74	74%
RO	1	20.0	23	23%
SE	0	65.6		66%
SI	2	20.4	71	71%
SK	2	10.7		11%

Source: ICTWSS, http://uva-aias.net/en/ictwss ,
Codes on extensions: 3 = automatic and general, 2 = thresholds apply, 1 = exceptional, 0 = absent

146 See http://uva-aias.net/en/ictwss

3.4.8 Self-employed who can bargain better conditions individually

The policy options will not improve the working conditions of platform workers and solo self-employed who can bargain better working conditions individually than collectively. The share of those who can bargain better conditions individually, should therefore also be subtracted from the number of platform workers and solo self-employed whose working conditions may be expected to improve as a result of the policy options.

When asked whether collective action could improve working conditions, between 45 and 70% of the self-employed agree, totally agree or don't know, based on the online survey for this study (see table below). Here, the respondents were given examples of collective actions such as joining a trade union, strikes or collective bargaining. However, this question is not specific to collective bargaining, and could also be interpreted as question about collective action in general. As discussed further below, the findings change significantly when asked whether they themselves would like to be covered by a collective agreement. For this reason, the percentages of Table 25 are not used to estimate the number of solo self-employed who can bargain better working conditions individually.

Table 25 Proportion of self-employed who agree or totally agree that collective action would improve working conditions, or don't know

MS	Assumed similar MS	Platform work	Working for firms with 100+ employees	Professionals	Total
AT		58.3%	54.7%	57.5%	56.1%
BE	NL	68.2%	67.1%	54.5%	59.6%
BG	PL	65.8%	65.2%	54.8%	64.8%
CY	DE	54.7%	45.7%	45.7%	49.7%
CZ	PL	65.8%	65.2%	54.8%	64.8%
DE		54.7%	45.7%	45.7%	49.7%
DK	SE	67.0%	45.6%	52.7%	55.0%
EE	PL	65.8%	65.2%	54.8%	64.8%
ES		62.1%	56.8%	60.6%	62.7%
FI	SE	67.0%	45.6%	52.7%	55.0%
FR		60.3%	54.8%	49.4%	55.5%
GR	IT	56.1%	45.1%	45.5%	56.7%
HR	PL	65.8%	65.2%	54.8%	64.8%
HU	PL	65.8%	65.2%	54.8%	64.8%
IE	NL	68.2%	67.1%	54.5%	59.6%
IT		56.1%	45.1%	45.5%	56.7%
LT	PL	65.8%	65.2%	54.8%	64.8%
LU	DE	54.7%	45.7%	45.7%	49.7%
LV	PL	65.8%	65.2%	54.8%	64.8%
MT	DE	54.7%	45.7%	45.7%	49.7%
NL		68.2%	67.1%	54.5%	59.6%
PL		65.8%	65.2%	54.8%	64.8%
PT	ES	62.1%	56.8%	60.6%	62.7%
RO	PL	65.8%	65.2%	54.8%	64.8%
SE		67.0%	45.6%	52.7%	55.0%
SI	PL	65.8%	65.2%	54.8%	64.8%
SK	PL	65.8%	65.2%	54.8%	64.8%

Source: Ecorys online survey for this study (2021). Countries covered: AT, DE, ES, FR, IT, NL, PL, SE. For other countries, one of the percentages of the countries covered is assumed.

When asked specifically whether they would like to be covered by a collective agreement for self-employed, the proportion of positive responses varies strongly between countries. In Austria and Germany, only between 20% and 30% of the self-employed would like to be covered by a collective agreement, compared to between 60% and 80% in Italy and Spain (see table below). In the impact assessment, the below percentages from the direct question about willingness to be covered by a collective agreement is used. For those who do not want to be covered, it is assumed that they could individually bargain working conditions that are better for them. For the estimate of the proportion of people who can bargain better working conditions individually than collectively, the percentages of Table 26 below are used. The first four columns with percentages will be used to estimate the

number who will gain collective bargaining rights, whereas the last two columns will be used to estimate the number who will lose collective bargaining rights.

Table 26 Proportion of self-employed who agree or totally agree that they would like to be covered by a collective agreement, or don't know

MS	MS used	Platform work	Working for firms with 100+ employees	Not in ISCO group of professionals	Total	Working for firms with < 100 employees	Professionals
EU		52%	53%	62%	50%	49%	47%
AT		27%	30%	34%	26%	25%	31%
BE	NL	48%	41%	51%	37%	37%	29%
BG	PL	44%	49%	54%	41%	40%	47%
CY	DE	21%	29%	30%	25%	24%	22%
CZ	PL	44%	49%	44%	41%	40%	47%
DE		21%	29%	29%	25%	24%	22%
DK	SE	48%	50%	61%	43%	42%	25%
EE	PL	44%	49%	51%	41%	40%	47%
ES		71%	79%	95%	71%	71%	63%
FI	SE	48%	50%	53%	43%	42%	25%
FR		58%	40%	64%	48%	48%	43%
GR	IT	73%	71%	83%	71%	71%	70%
HR	PL	44%	49%	45%	41%	40%	47%
HU	PL	44%	49%	51%	41%	40%	47%
IE	NL	48%	41%	49%	37%	37%	29%
IT		73%	71%	82%	71%	71%	70%
LT	PL	44%	49%	56%	41%	40%	47%
LU	DE	21%	29%	36%	25%	24%	22%
LV	PL	44%	49%	51%	41%	40%	47%
MT	DE	21%	29%	34%	25%	24%	22%
NL		48%	41%	49%	37%	37%	29%
PL		44%	49%	48%	41%	40%	47%
PT	ES	71%	79%	93%	71%	71%	63%
RO	PL	44%	49%	48%	41%	40%	47%
SE		48%	50%	53%	43%	43%	25%
SI	PL	44%	49%	47%	41%	40%	47%
SK	PL	44%	49%	46%	41%	41%	47%

Source: Ecorys online survey for this study (2021). Countries covered: AT, DE, ES, FR, IT, NL, PL, SE. For other countries, one of the percentages of the countries covered is assumed.

3.4.9 Numbers affected per policy option and scenario

Combining the results of the previous steps for all policy options, and focusing on the year 2030, the numbers affected by the policy options, depending on the scenario, are given in the tables below.

At EU level, the numbers of persons potentially affected is 20.5 million in 2030 if only platform workers are allowed to bargain collectively (option 1). The number is a slightly higher 21.7 million if in addition solo self-employed hired by companies with 10+ employees may bargain collectively (option 2). When instead solo self-employed hired by companies of any size may bargain collectively but both platform workers and solo self-employed working in liberal professions are not allowed to bargain collectively, the number of potentially affected increases slightly again to 24.1 million persons. If all platform workers and solo self-employed may bargain collectively, all 35.1 million of them are potentially affected (see Table 27). These are the people for whom option 1 would reduce the uncertainty about the applicability of EU competition law to collective bargaining of the solo self-employed.

Table 27 FTE of persons potentially affected by the policy options to allow collective bargaining (platform workers and solo self-employed, step 1)

	1. Chilling effect variant (Step 1)			
	Option 1	Option 2	Option 3	Option 4
EU	20,526,741	21,724,186	24,123,438	35,137,492
AT	264,967	296,190	265,936	461,617
BE	444,111	472,003	513,832	891,436
BG	297,309	311,289	273,068	432,534
CY	61,725	65,363	70,378	99,738
CZ	377,086	412,604	745,637	1,031,589
DE	2,708,559	3,034,092	3,264,903	4,340,086
DK	183,097	199,059	191,973	292,247
EE	49,350	53,831	58,727	89,788
ES	3,293,323	3,396,497	3,172,804	4,806,790
FI	341,216	363,782	408,297	539,181
FR	2,240,294	2,339,306	2,391,916	4,057,281
GR	448,982	473,022	601,793	846,393
HR	130,290	135,408	154,778	175,903
HU	591,583	608,708	557,299	839,995
IE	155,504	170,566	203,624	303,616
IT	3,026,648	3,191,594	4,115,152	5,675,028
LT	85,789	92,846	98,006	169,614
LU	23,504	25,792	20,103	37,454
LV	100,145	104,869	99,783	143,408
MT	22,587	24,968	27,575	47,537
NL	1,111,004	1,191,927	1,363,005	2,220,574
PL	2,090,947	2,174,970	2,222,913	3,347,072
PT	511,320	531,189	558,238	848,583
RO	830,135	881,292	1,400,118	1,702,598
SE	672,674	692,468	710,765	920,712
SI	123,832	128,408	137,693	189,882
SK	340,761	352,142	495,119	626,839

If numbers of solo self-employed who may currently bargain collectively without legal action from the Member State are subtracted from chilling effect variant (Table 27) the numbers for option 1 change only in Poland, France, Greece, Italy, Portugal and Spain because some or all platform workers are currently not hindered by national authorities from collective bargaining. The total number compared to step 1 drops from 25.6 million to 16.3 million platform workers who are currently not allowed to bargain collectively but who would be allowed under policy option 1. Compared to step 1, the figures for options, 2, 3 and 4 fall slightly to respectively 17.0 million, 17.5 million and 26.4 million respectively (see Table 28).

Table 28 FTE of platform workers and solo self-employed against whom national authorities would still enforce EU competition law against collective bargaining (step 2)

	2. National enforcement variant (Step 2)			
	Option 1	Option 2	Option 3	Option 4
EU	16,290,031	17,033,792	17,546,854	26,352,926
AT	264,967	296,024	265,936	460,585
BE	444,111	472,003	513,832	891,436
BG	297,309	311,289	273,068	432,534
CY	61,725	65,363	70,378	99,738
CZ	377,086	412,604	745,637	1,031,589
DE	2,708,559	2,887,618	2,660,875	3,672,988
DK	183,097	199,059	191,973	292,247
EE	49,350	53,831	58,727	89,788
ES	2,799,324	2,867,440	2,258,272	3,831,175
FI	341,216	363,782	408,297	539,181
FR	1,568,206	1,663,981	1,850,182	3,271,185
GR	0	37,495	349,486	495,855
HR	130,290	135,408	154,778	175,903
HU	591,583	608,708	557,299	839,995
IE	155,504	170,449	203,624	302,523
IT	2,572,651	2,612,382	2,822,503	3,918,324
LT	85,789	92,846	98,006	169,614
LU	23,504	25,792	20,103	37,454
LV	100,145	104,869	99,783	143,408
MT	22,587	24,968	27,575	47,537
NL	1,111,004	1,153,153	1,031,118	1,774,226
PL	0	0	0	0
PT	434,622	447,126	397,358	658,156
RO	830,135	881,292	1,400,118	1,702,598
SE	672,674	669,913	493,726	701,817
SI	123,832	124,255	99,081	146,234
SK	340,761	352,142	495,119	626,839

If in addition it is taken into account that not all self-employed would be covered by a collective agreement even if it is allowed, for example because an agreement is not extended to the whole sector or because some self-employed don't join a trade union in countries where only union members are covered by a collective agreement, numbers whose working conditions potentially improve through coverage by a collective agreement in 2030 fall more sharply. Compared to the chilling effect variant (all platform workers and solo self-employed are potentially affected), the numbers who would be covered by a collective agreement would fall to 12.2, 12.9, 14.2 and 21.0 million in option 1-4 respectively. After deducting those who already are not hindered by national authorities if they bargain collectively (resulting in the national enforcement variant) the numbers are lower at 10.4, 10.9, 10.8 and 16.7 million people, respectively.

Table 29 FTE of platform workers and solo self-employed against whom national authorities would still enforce EU competition law and who would be covered by a collective agreement if EU guidelines would remove the chilling effect (step 3)

	Step 3: in addition would be covered if collective bargaining is allowed							
	1. Chilling effect variant				2. National enforcement variant			
	Option 1	Option 2	Option 3	Option 4	Option 1	Option 2	Option 3	Option 4
EU	12,214,867	12,929,015	14,179,181	21,032,864	10,447,481	10,895,123	10,798,274	16,691,832
AT	259,668	290,266	260,617	452,385	259,668	290,104	260,617	451,373
BE	412,579	438,491	477,350	828,144	412,579	438,491	477,350	828,144
BG	68,084	71,285	62,533	99,050	68,084	71,285	62,533	99,050
CY	27,159	28,760	30,966	43,885	27,159	28,760	30,966	43,885
CZ	114,634	125,432	226,674	313,603	114,634	125,432	226,674	313,603
DE	1,462,622	1,638,410	1,763,048	2,343,646	1,462,622	1,559,314	1,436,872	1,983,413
DK	150,139	163,229	157,418	239,642	150,139	163,229	157,418	239,642
EE	2,100	2,290	2,498	3,820	2,100	2,290	2,498	3,820
ES	2,238,038	2,308,152	2,156,137	3,266,543	1,902,332	1,948,621	1,534,650	2,603,545
FI	310,506	331,041	371,550	490,654	310,506	331,041	371,550	490,654
FR	2,105,876	2,198,948	2,248,401	3,813,844	1,474,113	1,564,142	1,739,171	3,074,914
GR	114,490	120,621	153,457	215,830	0	9,561	89,119	126,443
HR	58,256	60,544	69,205	78,651	58,256	60,544	69,205	78,651
HU	121,227	124,736	114,201	172,131	121,227	124,736	114,201	172,131
IE	52,871	57,992	69,232	103,230	52,871	57,953	69,232	102,858
IT	2,421,318	2,553,275	3,292,122	4,540,022	2,058,120	2,089,905	2,258,002	3,134,659
LT	6,091	6,592	6,958	12,043	6,091	6,592	6,958	12,043
LU	13,867	15,218	11,861	22,098	13,867	15,218	11,861	22,098
LV	11,869	12,429	11,826	16,996	11,869	12,429	11,826	16,996
MT	11,316	12,509	13,815	23,816	11,316	12,509	13,815	23,816
NL	852,140	914,208	1,045,425	1,703,180	852,140	884,468	790,867	1,360,831
PL	265,550	276,221	282,310	425,078	0	0	0	0
PT	377,866	392,549	412,538	627,103	321,186	330,426	293,647	486,377
RO	190,931	202,697	322,027	391,597	190,931	202,697	322,027	391,597
SE	441,412	454,400	466,407	604,175	441,412	439,600	323,985	460,536
SI	87,797	91,042	97,625	134,626	87,797	88,097	70,249	103,680
SK	36,461	37,679	52,978	67,072	36,461	37,679	52,978	67,072

Lastly, after in addition taking into account that self-employed may be able to individually bargain working conditions that are better for them, the estimated numbers of those who would not like to be covered by a collective agreement are subtracted. The resulting numbers of people whose working conditions are estimated to actually improve due to the policy options then become 6.8, 7.0, 9.3 and 10.9 million in policy options 1-4 due to the removal of the chilling effect (comparison with the chilling effect variant), and lower numbers 5.7, 5.9, 6.9 and 8.5 million people due to further non-enforcement by national authorities (comparison with the national enforcement variant).

Table 30 FTE of platform workers and solo self-employed against whom national authorities would still enforce EU competition law, who would not be covered by a collective agreement if EU guidelines would remove the chilling effect and who would not be able to bargain better working conditions individually (step 4)

	Step 4: in addition would like to be covered by a collective agreement							
	1. Chilling effect variant				2. National enforcement variant			
	Option 1	Option 2	Option 3	Option 4	Option 1	Option 2	Option 3	Option 4
EU	6,764,810	7,031,102	9,251,776	10,942,381	5,661,914	5,857,005	6,875,876	8,491,702
AT	70,110	88,241	89,146	117,620	70,110	88,191	89,146	117,357
BE	195,975	178,904	241,299	308,898	195,975	178,904	241,299	308,898
BG	29,753	34,787	33,800	40,512	29,753	34,787	33,800	40,512
CY	5,758	8,283	9,282	10,796	5,758	8,283	9,282	10,796
CZ	50,095	61,211	100,470	128,264	50,095	61,211	100,470	128,264
DE	310,076	471,862	516,884	576,537	310,076	449,082	421,257	487,920
DK	71,767	81,614	95,309	103,765	71,767	81,614	95,309	103,765
EE	918	1,118	1,281	1,562	918	1,118	1,281	1,562
ES	1,577,817	1,814,207	2,049,331	2,325,778	1,341,144	1,531,616	1,458,630	1,853,724
FI	148,422	165,521	195,965	212,453	148,422	165,521	195,965	212,453
FR	1,212,985	879,579	1,432,593	1,815,390	849,089	625,657	1,108,131	1,463,659
GR	83,006	86,123	127,060	153,240	0	6,827	73,789	89,775
HR	25,458	29,546	31,313	32,168	25,458	29,546	31,313	32,168
HU	52,976	60,871	57,794	70,402	52,976	60,871	57,794	70,402
IE	25,114	23,661	33,816	38,505	25,114	23,645	33,816	38,366
IT	1,755,456	1,823,038	2,713,984	3,223,416	1,492,137	1,492,192	1,861,469	2,225,608
LT	2,662	3,217	3,928	4,925	2,662	3,217	3,928	4,925
LU	2,940	4,383	4,215	5,436	2,940	4,383	4,215	5,436
LV	5,187	6,065	6,028	6,951	5,187	6,065	6,028	6,951
MT	2,399	3,603	4,748	5,859	2,399	3,603	4,748	5,859
NL	404,766	372,997	515,920	635,286	404,766	360,863	390,295	507,590
PL	116,045	134,796	135,771	173,857	0	0	0	0
PT	266,395	308,543	381,671	446,497	226,436	259,715	271,676	346,301
RO	83,437	98,916	154,323	160,163	83,437	98,916	154,323	160,163
SE	210,995	227,200	245,984	261,608	210,995	219,800	170,870	199,412
SI	38,367	44,428	45,715	55,062	38,367	42,991	32,896	42,405
SK	15,934	18,387	24,147	27,432	15,934	18,387	24,147	27,432

The numbers of solo self-employed whose working conditions are likely not to improve because they would remain uncertain or having a greater uncertainty about their collective bargaining rights under the policy options also decrease when taking account that:

- not all solo self-employed will manage to conclude collective agreements
- some solo self-employed are able to bargain better working conditions individually.

Applying the percentages the last four columns of Table 22, the percentages in Table 24 and the last two columns of Table 26 to the numbers in Table 28, gives the following numbers of solo self-employed who would remain uncertain or have a greater uncertainty about their collective bargaining rights in the policy options.

Table 31 Numbers of solo self-employed who currently are not hindered to bargain collectively and who would remain uncertain under the policy options, compared to the national enforcement variant

	National enforcement variant								
	Step 2			Step 3			Step 4		
	Option 1	Option 2	Option 3	Option 1	Option 2	Option 3	Option 1	Option 2	Option 3
EU	2,434,116	2,191,886	1,911,634	309,133	278,370	853,453	129,812	112,277	448,782
AT			903			885			271
BE									
BG									
CY									
CZ									
DE			230,458			124,447			27,254
DK									
EE									
ES									
FI									
FR			65,698			61,756			26,740
GR			135,330			34,509			24,156
HR									
HU									
IE			1,068			363			104
IT			553,992			443,194			310,236
LT									
LU									
LV									
MT									
NL			67,425			51,715			
PL	2,434,116	2,191,886	806,481	309,133	278,370	102,423	129,812	112,277	47,627
PT			10,824			7,999			5,071
RO									
SE			34,323			22,523			5,631
SI			5,133			3,639			1,692
SK									

Table 32 gives an overview of the numbers affected in 2030 at the EU level, by policy option and scenario. Compared to the chilling effect variant, the numbers of people whose working conditions are expected to improve because the policy options remove the chilling effect vary from 6.8 million in option 1 (only platform workers) to 10.9 million in option 4 (both platform workers and all solo self-employed not selling goods). Compared to the national enforcement variant, taking account of those against whom national authorities take no action if they bargain collectively, the working conditions would improve for 5.7 to 8.5 million people. Compared to the national enforcement variant, in addition 0.4 million FTE of solo self-employed and platform workers in liberal professions who are currently not hindered to bargain collectively would not be covered by policy option 3 and thus remain uncertain about their collective bargaining rights. Under policy options 1 and 2, about 100 thousand Polish solo self-employed (all 125,000 in option 1 and 60,000 of them working for clients with less than 10 employees in option 2) whose working conditions are estimated to improve by currently allowed collective bargaining, would remain uncertain or have a greater uncertainty about their rights to bargain collectively.

Table 32 Numbers of platform workers and solo self-employed affected by policy option and scenario (EU, 2030), in millions

	1. Chilling effect variant				2. National enforcement variant			
	Option 1	Option 2	Option 3	Option 4	Option 1	Option 2	Option 3	Option 4
Potentially affected	20.5	21.7	24.1	35.1	20.5	21.7	24.1	35.1
Not already allowed	20.5	21.7	24.1	35.1	16.3	17.0	17.5	26.4
In addition covered if allowed	12.2	12.9	14.2	21.0	10.4	10.9	10.8	16.7
In addition wants to be covered	6.8	7.0	9.3	10.9	5.7	5.9	6.9	8.5
Currently allowed in national enforcement variant but remain uncertain	0	0	0	0	0.1	0.1	0.4	0

3.4.10 Expected changes in pay rates

Collective agreements typically cover a range of working conditions including not only pay conditions, but also working time, social security, training and health and safety at work. The few collective agreements that we analysed so far, tend to also cover a range of working conditions for platform workers. However, agreements for other types of solo self-employed tend to be more limited to pay conditions.

Most collective agreements for platform workers that were identified in this study relate to food deliveries, although one collective agreement for a platform of restaurant personnel in the Netherlands was identified as well. The average pay increase observed after a collective agreement compared to the situation immediately before the collective agreement is 16% and assumed to be +15% in the impact assessment.

Table 33 Pay rates before and after collective agreements, platform workers

		Before agreement		Collective agreement		% increase
	Platform	Payment basis	App. Per hour	Payment basis	App. Per hour	
AT	Foodora (deliveries)	Hour + delivery	7.2 ; 8.5	Month	8.7	2 - 20%
DK	Hilfr (cleaning)	Hour	16.9	Hour	18.4	9%
FR	Foodora (deliveries)	Hour + delivery	8.6	Month	8.7	1%
IT	Assodelivery (food deliveries) & UGL (trade union)	Delivery	7.4	Hour	10	35%
NL	Couriers collective agreement (deliveries)	Hour	11.7	Hour	15	28%
NL-2	Restaurant personnel platform (Temper)	Hour	12	Hour	13	8%
SE	Foodora (deliveries)	Hour + delivery	10.89	Hour	12.87	18%
Average			10.76		12.37	16%

Sources: various internet sources.[147]

For solo self-employed not working through platforms, even fewer collective agreements have been identified. The footnote on sources in the table above provides references to the sources that could be identified. Two collective agreements for journalists in Austria and Germany respectively, provided pay rates per 1,000 characters (the length of a typical article) and per normal line, respectively. In the Netherlands, FNV reached collective agreements for self-employed architects and media professionals. Both collective agreements provided that self-employed who work side-by-side with employees are paid at least 150% of the wage rate of an employee with similar qualifications. The Dutch competition authority blocked an earlier collective agreement in 2015 but changed that policy in the summer of 2019, when it argued that solo self-employed working side-by-side with employees are in practice indistinguishable from employees.[148] The Dutch Minister of Social Affairs and Employment has granted statutory force to this collective agreement, which means that the agreement is

[147] https://kontrast.at/foodora-betriebsrat-kollektivvertrag/ ; https://www.researchgate.net/publication/340096676_The_Hilfr_agreement_Negotiating_the_platform_economy_in_Denmark/link/5e789e08a6fdcccd62192816/download ; https://www.cidj.com/metiers/coursier-coursiere ; https://www.youtube.com/watch?v=A8jYYcTYZFI ; https://secureservercdn.net/160.153.137.14/3be.191.myftpupload.com/wp-content/uploads/2020/10/CCNL-RIDER.pdf ; https://strugglesinitaly.wordpress.com/2016/10/30/foodora-strikes-in-italy-the-dark-side-of-the-sharing-economy/ ; https://www.fnv.nl/nieuwsbericht/algemeen-nieuws/2021/04/hof-start-hoger-beroep-deliveroo-toepassen-cao ; https://userfiles.mailswitch.nl/c/4f297fc54dc1a9c7ba8aa72a219467b7/1284-758506239266985e8e4957b36facd0c2.pdf ; https://www.gigwatch.se/en/2019/09/21/foodora-2/

[148] See https://zzpned.nl/architecten-eerste-minimumtarief-zzpers-in-cao/

also declared to apply to architecture firms who are not members of the employer associations who concluded the agreement.[149] The pay rates of self-employed in these professions vary widely, and the pay rates before and after the collective agreement have only been estimated for architects in that country.

It is relevant to note that the collective agreements for journalists in Austria and Germany do not provide that the agreed rates are minimum pay rates, nor does the German law on collective agreements (TVG) provide that any agreed pay rates are minimum rates. The collective agreement for self-employed architects (and media professionals) in the Netherlands explicitly state that the agreed pay rates are minimum pay rates. It is assumed that companies currently use a collectively agreed pay rate as an argument not to pay more if the agreed rate is not explicitly a minimum. The policy options will provide that only minimum pay rates can be agreed. Hence, a minimum pay rate will not change anything for self-employed who can bargain better pay rates individually. The rationale that was offered to agree pay minimum rates was to create clarity about genuine and false self-employment: freelancers who earn less than 150% of the relevant employee wage rate would after this agreement be assumed to be employees.[150]

Table 34 Pay rates before and after collective agreements, solo self-employed not working through platforms

		Before agreement		Collective agreement		% increase
	Platform	Payment basis	App. Per hour	Payment basis	App. Per hour	
AT	Journalists	1000 characters	6.9	1000 characters	14.4	107%
DE	Journalists	Normal line	9.3	Normal line	11.1	19%
NL	Architects		54.2		38.9	-28%

Sources: various internet sources[151]

The average change in pay rates of (genuine) self-employed after a collective agreement is hard to determine if pay rates vary so widely between freelancers and if so few collective agreements for solo self-employed have been concluded. Therefore, other studies analysing the impact of collective agreements have been reviewed. The German situation that collective agreements only apply to trade union workers, creates an interesting possibility to compare pay rates with and without coverage by a collective agreement. In general, workers who have joined a trade union earn +12% more than workers with similar characteristics who did not.[152] For ICT personnel in the German metal manufacturing, the difference in pay rate is +14%.[153] Combining this evidence, the same average increase after collective bargaining of +15% for platform workers is also assumed for solo self-employment not working through platforms.

Specifically for solo self-employed at risk of poverty, it makes sense to focus on pay increases for solo self-employed with extremely low equivalent pay rates per hour. The journalists in Austria would be one example of this. Another example is a court case where temporary agency workers handling baggage and who were judged to be false self-employed received a compensation for too low pays in the past that is equivalent to a pay increase of +43%.[154] Given in addition the observed pay increase of +35% for food delivery platform workers in

[149] See https://kunstenbond.nl/nieuws/nieuwe-architecten-cao-geeft-koers-aan-voor-tarieven-zzpers/

[150] See https://www.fnv.nl/cao-sector/media-cultuur/audiovisueel/blijf-op-de-hoogte/minimumtarief-voor-zzp-ers-bij-de-publieke-omroep

[151] See https://www.kollektivvertrag.at/kv/tageszeitungen-redakteure-u-reporter-ang/tageszeitungen-redakteure-u-reporter-gesamtvertrag-fuer-freie-journalistinnen-zusatz/4184546 ; https://www.quora.com/How-many-articles-does-an-average-journalist-write-per-month https://www.mein-klagenfurt.at/mein-klagenfurt/das-freie-wort/journalismus-in-gefahr/; https://www.kollektivvertrag.at/kv/tageszeitungen-redakteure-u-reporter-ang/tageszeitungen-redakteure-u-reporter-gesamtvertrag-fuer-freie-journalistinnen-zusatz/4184546 ; https://www.quora.com/How-many-articles-does-an-average-journalist-write-per-month ; https://architectenweb.nl/nieuws/artikel.aspx?ID=46839 ; https://www.mijnzzp.nl/Beroep/100-Architect/Salaris-en-tarief ; https://fnvzzp.nl/nieuws/2019/11/voor-het-eerst-zzp-tarief-in-een-cao

[152] See https://www.boeckler.de/de/pressemitteilungen-2675-beschaftigte-ohne-tarifvertrag-27526.htm

[153] See https://www.igmetall.de/tarif/besser-mit-tarif/itk-entgeltanalyse

[154] See http://persberichten.deperslijst.com/82581/fnv-uitzendkrachten-schiphol-kunnen-flinke-nabetaling-tegemoet-zien-juridisch-bijzondere-uitspraak.html

Italy, it is assumed that in the specific case where pay rates are so low that freelancers are at risk of poverty, the average pay increase after collective bargaining is +40%.

In sum, the assumed pay increases after collective bargaining are for all Member States and all policy options:

- +15% on average
- +40% for solo self-employed at risk of poverty

3.5. Expected impacts

This chapter explores the potential impacts of the four policy options on certain expected impacts on:

- Aggregate pay increase
- Consumer prices
- Poverty rates of solo self-employed
- the State budget

Various wider impacts are assessed only qualitatively, because they depend on many other factors.

3.5.1 Aggregate pay increase

Based on EU-SILC data, solo self-employed (not selling products) earn on average EUR 21,267 per year, compared to EUR 29,811 per year across all employed (employees and employed with or without personnel). The value across all employed is less than the OECD average wage level. An explanation is that the OECD average takes account of the hours that people work per week, but does not take account of the fact that some employed work less than 12 months per year.

No data was found on average earnings of platform workers. It was not asked in the online survey for this study, neither was it reported in the COLLEEM studies on platform workers[155] or the recent CEPS report.[156] It would be complicated to ask after information that enables to calculated periodical pay (for example per month), because of the diversity of platform work and the non-periodical pay rates (per ride, per delivery, per article, …).

Due to a lack of data, the same annual earnings per FTE of platform workers is assumed as for solo self-employed not working through platforms. The assumption of equal earnings per FTE take account of differences in hours per week. Nevertheless, as reported above based on Eurofound data, about half of platform work is low-skilled, whereas only about one quarter of the solo self-employed is employed in occupational groups such as elementary jobs (for example cleaning), machine operators (for example taxi and truck drivers) and service and sales workers (such as child care workers and personal care workers). Thus, platform workers are likely to earn less than EUR 21,267 per year. On the other hand, the minimum wage is about EUR 1,600 per month or EUR 19,000 per year in countries in the northwest of Europe which have national minimum wages (Belgium, France, Germany, Ireland, the Netherlands), according to Eurostat data. Weighting minimum wages with numbers of platforms and assuming similar wages in Denmark, Sweden and Finland as in the Netherlands, this gives a minimum of EUR 14,500 per year at the EU level. Assuming that half of the platform workers earn about this wage and the other half earn higher wages, platform workers are on average likely to earn a few thousand euros per year less than solo self-employed on average. Based on the pay rates before collective agreements in Table 33 the full-time pay rates (40 hours per week, 12 months per year) imply an average pay rate of EUR 22,387 per year for low-skilled work. On the one hand, this is an overestimate because not all platform workers

[155] JRC (2017), Platform workers in Europe and JRC (2018) New evidence on platform workers in Europe

[156] CEPS (2021), Digital labour platforms in the EU, https://www.ceps.eu/ceps-publications/digital-labour-platforms-in-the-eu/

work 12 months per year, and the FTE-factor used in the calculation of FTE of platform workers is likely also overestimated (not everyone working 20+ hours per week works 40 hours per week although among employees this is the case for about 80% of them). On the other hand, platforms for medium- to high-skilled work are likely to offer better pay conditions than platforms for low-skilled work. Although it is likely an overestimate, the best assumption seems that platform workers on a full-time basis earn similar amounts as solo self-employed in general.

Multiplying a 15% pay increase of the average annual earnings of solo self-employed, also assumed for platform workers, with the projected 2030 numbers of people whose pay conditions are estimated to increase thanks to collective bargaining induced by removal of the chilling effect, gives aggregate pay increase estimates varying between EUR 21 billion in option 1 (only platform workers) to EUR 35 billion in option 4 (all platform workers and solo self-employed not selling products), see Table 35. Taking into account that some are currently not hindered to bargain collectively (national enforcement variant), the aggregate pay increases drop to 18-27 billion euro. Per country, the pay rates and thus the +15% pay increases reflects differences in purchasing power, with the lowest pay rates in Bulgaria, Estonia, Latvia and Romania and the highest pay rate Luxembourg, followed by Austria/Germany and the Netherlands.

Table 35 Average annual earnings of solo self-employed (also assumed for platform workers) and aggregate pay increase (in EUR mln, 2030 in prices of 2018) after a +15% average pay increase

			Aggregate pay increase x EUR mln (numbers 2030)							
			Chilling effect variant				National enforcement variant			
	Average annual income	+15% pay increase	Option 1	Option 2	Option 3	Option 4	Option 1	Option 2	Option 3	Option 4
EU	21,267	3,190	21,250	21,536	29,069	34,671	17,938	18,126	21,833	27,061
AT	30,401	4,560	320	402	407	536	320	402	407	535
BE	29,715	4,457	874	797	1,076	1,377	874	797	1,076	1,377
BG	4,398	660	20	23	22	27	20	23	22	27
CY	14,517	2,178	13	18	20	24	13	18	20	24
CZ	9,741	1,461	73	89	147	187	73	89	147	187
DE	30,401	4,560	1,414	2,152	2,357	2,629	1,414	2,048	1,921	2,225
DK	24,592	3,689	265	301	352	383	265	301	352	383
EE	4,173	626	1	1	1	1	1	1	1	1
ES	14,049	2,107	3,325	3,823	4,319	4,901	2,826	3,228	3,074	3,906
FI	18,954	2,843	422	471	557	604	422	471	557	604
FR	26,739	4,011	4,865	3,528	5,746	7,281	3,406	2,509	4,445	5,871
GR	18,150	2,723	226	234	346	417	0	19	201	244
HR	7,012	1,052	27	31	33	34	27	31	33	34
HU	8,323	1,248	66	76	72	88	66	76	72	88
IE	22,547	3,382	85	80	114	130	85	80	114	130
IT	23,407	3,511	6,164	6,401	9,529	11,318	5,239	5,239	6,536	7,814
LT	6,975	1,046	3	3	4	5	3	3	4	5
LU	43,117	6,468	19	28	27	35	19	28	27	35
LV	4,364	655	3	4	4	5	3	4	4	5
MT	16,893	2,534	6	9	12	15	6	9	12	15
NL	30,545	4,582	1,855	1,709	2,364	2,911	1,855	1,653	1,788	2,326
PL	8,143	1,221	142	165	166	212	0	0	0	0
PT	10,123	1,518	404	468	580	678	344	394	413	526
RO	4,398	660	55	65	102	106	55	65	102	106
SE	17,303	2,595	548	590	638	679	548	570	443	518
SI	6,237	936	36	42	43	52	36	40	31	40
SK	9,073	1,361	22	25	33	37	22	25	33	37

Source: EU-SILC, 2018. For Germany and Romania the values of Austria and Bulgaria were assumed due to missing data. No adjustments for differences in purchasing power.

3.5.2 Expected impacts on prices

The aggregate pay increase for self-employed and platform workers imply extra costs for the enterprises that hire them. However, enterprises generally do not pass on all costs to their customers. It is assumed that on average 85% of the cost increase is passed on to customers, based on RBB Economics (2014).[157] This study discusses a large body of empirical literature showing that the cost passed through depends on whether one single company faces increased costs, or whether all companies in a sector face increased costs. In the first

[157] See https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/320912/Cost_Pass-Through_Report.pdf

case, the cost pass-through is limited to about 15%. This makes sense, because otherwise the single company might lose customers to competitors. In the second case, the cost-pass through is on average about 85%. The study notes that the cost pass-through depends on the market structure. In a monopoly market, the cost pass-through have been observed to be less, typically about 40% according to the RBB study. This makes sense because a monopolist can charge prices based partly on willingness to pay, and the willingness to pay does not change if the cost increases. In a competitive market, about 100% of the cost increase is passed on to customers. This also makes sense because in a competitive market profits have been driven down to zero. If costs increase then prices must increase to avoid running at a loss and going out of business. The study further notes that the cost pass-through of exchange rates is about 15%. This could be understood partly because imports compete with domestic products, and partly because exchange rate fluctuations are temporary. Lastly the study notes that after large mergers, about 40% of a cost decrease is passed on to consumers. This again makes sense because large mergers typically take place in an oligopoly market with a limited number of dominant companies.

Taking 85% of the aggregate pay increase (passed on to customers) and dividing the result by GDP gives an estimate of the average impact of the policy options on prices. Customer prices are expected to increase by 0.15% to 0.24% compared to the chilling effect variant, and by 0.12% to 0.18% compared to the national enforcement variant (2030 figures, see Table 36).

Table 36 Expected impacts of the policy options on customer prices, 2030

		Expected price changes							
		Chilling effect variant				National non-enforcement variant			
	GDP (2020, EUR bln)	Δ price option 1	Δ price option 2	Δ price option 3	Δ price option 4	Δ price option 1	Δ price option 2	Δ price option 3	Δ price option 4
EU	13,341	0.15%	0.15%	0.20%	0.24%	0.12%	0.13%	0.15%	0.18%
AT	377	0.07%	0.09%	0.09%	0.12%	0.07%	0.09%	0.09%	0.12%
BE	451	0.16%	0.15%	0.20%	0.26%	0.16%	0.15%	0.20%	0.26%
BG	61	0.03%	0.03%	0.03%	0.04%	0.03%	0.03%	0.03%	0.04%
CY	21	0.05%	0.07%	0.08%	0.10%	0.05%	0.07%	0.08%	0.10%
CZ	214	0.03%	0.04%	0.06%	0.07%	0.03%	0.04%	0.06%	0.07%
DE	3,336	0.04%	0.05%	0.06%	0.07%	0.04%	0.05%	0.05%	0.06%
DK	312	0.07%	0.08%	0.10%	0.10%	0.07%	0.08%	0.10%	0.10%
EE	27	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
ES	1,122	0.25%	0.29%	0.33%	0.37%	0.21%	0.24%	0.23%	0.30%
FI	237	0.15%	0.17%	0.20%	0.22%	0.15%	0.17%	0.20%	0.22%
FR	2,303	0.18%	0.13%	0.21%	0.27%	0.13%	0.09%	0.16%	0.22%
GR	166	0.12%	0.12%	0.18%	0.21%	0.00%	0.01%	0.10%	0.13%
HR	49	0.05%	0.05%	0.06%	0.06%	0.05%	0.05%	0.06%	0.06%
HU	136	0.04%	0.05%	0.05%	0.05%	0.04%	0.05%	0.05%	0.05%
IE	367	0.02%	0.02%	0.03%	0.03%	0.02%	0.02%	0.03%	0.03%
IT	1,652	0.32%	0.33%	0.49%	0.58%	0.27%	0.27%	0.34%	0.40%
LT	49	0.00%	0.01%	0.01%	0.01%	0.00%	0.01%	0.01%	0.01%
LU	64	0.03%	0.04%	0.04%	0.05%	0.03%	0.04%	0.04%	0.05%
LV	29	0.01%	0.01%	0.01%	0.01%	0.01%	0.01%	0.01%	0.01%
MT	13	0.04%	0.06%	0.08%	0.10%	0.04%	0.06%	0.08%	0.10%
NL	800	0.20%	0.18%	0.25%	0.31%	0.20%	0.18%	0.19%	0.25%
PL	523	0.02%	0.03%	0.03%	0.03%	0.00%	0.00%	0.00%	0.00%
PT	202	0.17%	0.20%	0.24%	0.28%	0.14%	0.17%	0.17%	0.22%
RO	218	0.02%	0.03%	0.04%	0.04%	0.02%	0.03%	0.04%	0.04%
SE	475	0.10%	0.11%	0.11%	0.12%	0.10%	0.10%	0.08%	0.09%
SI	46	0.07%	0.08%	0.08%	0.09%	0.07%	0.07%	0.06%	0.07%
SK	92	0.02%	0.02%	0.03%	0.03%	0.02%	0.02%	0.03%	0.03%

3.5.3 Impact on poverty rates

According to an analysis of EU-SILC data, 30% of the solo self-employed are at risk of poverty. This means that equivalized household income[158] is below a poverty threshold of 60% of the median equivalized household income. Household income is equivalized by dividing the household income by a weighted number of persons in the household, to take account of the fact that a larger household has more mouths to feed. It should be noted that this analysis includes all solo self-employed who are not farmers, shop owners or restaurant owners, instead of only those who are self-employed as a main job in the analysis of Eurostat Labour Force Survey data.

[158] Based on gross disposable household income. This refers to income after taxes and benefits, but before transfers between households such as alimonies, support for studying children and compensation for informal care

With EU-SILC data, it is not possible to identify platform workers or the company size of the clients of the solo self-employed. In addition, the sample size of EU-SILC is too small for reliable statistics per country about solo self-employed in the occupational category of professionals. Therefore, only a partial analysis of poverty rates is possible, for the solo self-employed in option 4. As an indication of how solo self-employed professionals would be affected in option 3, the impact of option 4 for this group is assessed at the EU-level.

If the pay rate of all solo self-employed at risk of poverty would increase by +40%, then at the EU level, 32% would be lifted out of poverty based on the household income distribution in EU-SILC data. The main reason why not all self-employed are lifted out of poverty after such a substantial increase in pay rates, is that income from self-employment is often just one of several sources of household income, besides for example the partner's income or minimum income benefits. This means that if pay rates increase by 40% then household income does not necessarily increase by 40% as well and may still remain below the poverty threshold. It should be further noted that if a household is lifted out of poverty, all household members are lifted out of poverty, not only the solo self-employed members. Given that the EU average household size of solo self-employed at risk of poverty is 4.2, this means that for each solo self-employed person lifted out of poverty, three other persons are lifted out of poverty as well.

Table 37: Impact of +40% income from self-employment on the risk of poverty in two hypothetical households

	Household 1			Household 2		
	Initital income	Ex post income	Ex post equivalised income	Initital income	Ex post income	Ex post equivalised income
Father, 50, self-employed	10,000	14,000	5,600	15,000	21,000	8,400
Mother, 50, employee	15,000	15,000	6,000	10,000	10,000	4,000
Son, 20, student	2,000	2,000	800	2,000	2,000	800
Daughter, 18, student	0	0	0	0	0	0
Household total	27,000	31,000	12,400	27,000	33,000	13,200
(Single-person) poverty threshold			13,000			13,000
Persons lifted out of poverty			0			4

Despite the substantial percentage of solo self-employed lifted out of poverty after a hypothetical 40% increase of all household members' income from self-employment, the percentage of self-employed lifted out of poverty is limited in precisely those countries with high poverty rates in the east of Europe: Bulgaria, Latvia, Lithuania, Poland, Romania and Slovenia. In these countries even after a 40% increase of pay rates the poverty rates would be about 40% in most of these countries, and even about 50% in Bulgaria and about 60% in Romania. Part of the reason for the high poverty rates in these countries is that the poverty threshold in most of these countries (60% of median equivalized household income) is higher than the minimum wage rate of employees, with Romania being the exception. Nevertheless, even if income does not increase sufficiently to reach the poverty threshold, the degree of poverty is obviously reduced by the increased income.

Table 38 Expected impacts of policy option 4 on poverty rates of solo self-employed not working through platforms

	Poverty rate before	Poverty rate after	% lifted out of poverty	Avg hh size
AT	23%	12%	49%	3.1
BE	18%	9%	50%	4.4
BG	59%	50%	16%	4.1
CY	25%	15%	40%	4.8
CZ	37%	21%	43%	4.1
DE	N.A.	N.A.	N.A.	N.A.
DK	8%	6%	25%	4.5
EE	41%	36%	12%	3.0
ES	33%	22%	33%	4.2
FI	8%	5%	37%	4.8
FR	20%	13%	34%	4.0
GR	34%	19%	44%	4.4
HR	48%	31%	36%	4.8
HU	31%	17%	45%	3.7
IE	8%	5%	41%	5.3
IT	23%	15%	34%	3.8
LT	45%	40%	11%	4.3
LU	16%	11%	29%	4.7
LV	47%	39%	17%	3.5
MT	36%	21%	43%	4.0
NL	15%	10%	33%	3.8
PL	58%	44%	24%	4.8
PT	34%	21%	38%	3.7
RO	70%	59%	16%	4.9
SE	17%	12%	30%	2.9
SI	50%	39%	21%	3.9
SK	56%	36%	36%	4.9
EU*	30%	20%	32%	4.2

Source: EU-SILC, analysis by Ecorys; EU*: excluding Germany for which no SILC microdata were provided.
Note: no data on poverty rates of platform workers is available.

Among the solo self-employed in the occupational group of professionals, the current poverty rate is 17%, and for them the fourth policy option would reduce the poverty rate to 10% at the EU level, a reduction of 42%. Excluding the self-employed in liberal professions is expected to reduce the poverty rate among the other solo self-employed from 35% to 24% (see table below).

Table 39 Expected impacts of policy options 3 and 4 on poverty rates of solo self-employed not working through platforms at EU level*

	Ex ante poverty rate	Ex post poverty rate	% lifted out of poverty
EU profs	17%	10%	42%
EU non-profs (policy option 3)	35%	24%	30%
EU total (policy option 4)	30%	20%	32%

Source: EU-SILC, analysis by Ecorys; EU*: excluding Germany for which no SILC microdata were provided.
Note: no data on poverty rates of platform workers is available.

3.5.4 Impact on the State budget

The impact on the State budget of increased pay of solo self-employed and platform workers is difficult to estimate. The State budget may be affected through three channels:

- Increased pay and prices may affect income tax and VAT revenue
- Some services of solo self-employed are provided to the State, or funded by the State, for example pro deo lawyers or urban planners, and perhaps also cleaners and carers
- Increased pay that raises income above the national subsistence level reduce the need for minimum income support

The first two categories of impacts on the State budget could not be estimated. While it is acknowledged that pay and price increases affect tax revenues, the value of increased revenues in today's prices is often limited. In a purely monetarist vision, all effects of wage and price increases are negated by inflation in the domestic market and by changes in exchange rates in the international market.

Solo self-employed and platform workers may work for multiple clients, and the share of income from services to the State or funded by the State is not known.

Only for the part of the pay increases that raise income above the national subsistence level, data is available from the Eurostat Survey of Income and Living Conditions.

In addition, a higher income of solo self-employed reduces the need to support their income if it is below the national minimum income norm. The national minimum income norm is below the Eurostat poverty threshold in all countries. Thus, ensuring the national minimum income norm is much less costly than eradicating poverty. The impact of the policy options on the State budget may thus not be confused with the cost of eradicating the poverty of solo self-employed people.

Although in the EU 3.0 million solo self-employed are at risk of poverty, only about 370 thousand (about 12%) receive minimum income support.[159] The take-up of minimum income support in general varies between 30 and 60 per cent in EU Member States due to job search requirements and asset requirements (for example not much money on the bank account).[160] It seems possible that solo self-employed are less able or even willing to search for a job while still running their one-person business.

Unfortunately, these low numbers mean that the numbers of respondents are too low for most countries for statistical reliability. The savings after a 40% wage increase of solo self-employed below the poverty thresholds are given for the countries with sufficient numbers of respondents below, as well as the EU level based on data from all Member States (not only those presented individually in the table below).

[159] Approximated with the variable HY060 "social exclusion not elsewhere classified", i.e. not unemployment benefit, disability benefit, sickness benefit, other social insurance, housing allowance or child benefit

[160] Ecorys (2020), Study on methodology to measure the return on investments from integrated social assistance schemes, https://op.europa.eu/en/publication-detail/-/publication/e2a4c40c-3b60-11eb-b27b-01aa75ed71a1/language-en

Table 40: Savings on social assistance (SA) to solo self-employed not working through platforms (2018 values)

	state expenditure before	savings	number of solo self-employed receiving SA	expenditure per beneficiary	average savings per beneficiary	Average expenditure after	savings x EUR mln
EU	2,069,427,036	994,721,858	797,437	2,595	1,247	1,348	995
AT	21,478,373	7,920,514	5,107	4,206	1,551	2,655	8
BE	0	0	0	N/A	N/A	N/A	0
BG	1,810,877	769,348	4,416	410	174	236	1
CY	14,941,251	6,911,077	2,660	5,617	2,598	3,019	7
CZ	2,143,470	2,143,470	1,831	1,171	1,171	0	2
DE	N/A	N/A	N/A	N/A	N/A	N/A	N/A
DK	0	0	0	N/A	N/A	N/A	0
EE	1,387,824	750,059	703	1,975	1,067	908	1
ES	373,704,814	201,966,047	100,779	3,708	2,004	1,704	202
FI	2,404,922	1,731,874	2,277	1,056	761	296	2
FR	1,221,765,352	516,568,148	284,943	4,288	1,813	2,475	517
GR	44,504,478	40,173,008	50,329	884	798	86	40
HR	253,123	115,194	721	351	160	191	0
HU	524,539	524,539	4,912	107	107	0	1
IE	6,204,617	6,176,177	2,697	2,301	2,290	11	6
IT	30,287,696	5,532,139	10,903	2,778	507	2,271	6
LT	6,722,714	4,687,750	7,910	850	593	257	5
LU	52,993	52,993	37	1,415	1,415	0	0
LV	960,787	958,174	3,744	257	256	1	1
MT	2,211,849	1,621,384	3,661	604	443	161	2
NL	213,279,387	142,025,028	30,950	6,891	4,589	2,302	142
PL	16,109,312	11,037,284	21,484	750	514	236	11
PT	5,166,362	3,576,929	2,241	2,305	1,596	709	4
RO	84,043,460	26,775,976	241,016	349	111	238	27
SE	798,700	798,700	845	945	945	0	1
SI	12,766,194	6,187,675	5,400	2,364	1,146	1,218	6
SK	5,903,942	5,718,371	7,870	750	727	24	6

The benefit savings are only achieved for those solo self-employed who receive social assistance. The saved expenditures on minimum income support are estimated at about EUR 1 billion at the EU level.

For platform workers, the take-up rate of minimum income support is likely closer to the average of 30% than to the 10% of solo self-employed. In addition, platform workers are estimated to earn on average less than solo self-employed (although the same pay rates are assumed in the price calculations). Thus, the savings on minimum income support of platform workers are likely much higher than for solo self-employed, but the magnitude of these savings could not be reliably estimated.

3.5.5 Expected wider impacts

The finding earlier in this report that about one third of the solo self-employed are at risk of poverty, indicates that a substantial part of them provide cheap labour to the companies that hire them, either through low pay rates or through not working (and getting paid) year-round. This raises the question whether the self-employed at risk of poverty have displaced employees. To the extent this was the case, it is not detectable from employment trends in the past ten years. There are many articles about labour market segmentation and substitution in the labour market, though most relate to temporary work. As Eurofound remarked in 2019, self-employment is just one of many factors that may contribute to labour market substitution.[161] The diversity of the group of solo self-employed further complicates an analysis of labour market substitution. Despite the uncertainty whether solo self-employed (and platform workers) have displaced "regular" workers, it seems

[161] Eurofound (2019), Labour market segmentation: Piloting new empirical and policy analyses, https://ddd.uab.cat/pub/estudis/2019/215471/ef19033en.pdf

logical that collectively agreed higher pay rates could affect the choice of companies between hiring workers and hiring solo self-employed.

In the short run, while the covid lockdown measures last, companies may have a larger preference to work with solo self-employed. For example, Focacci and Santarelli (2021) found that many workers who lost their job during the covid pandemic started to work as solo self-employed.[162] The authors further indicate that many who lost their job switched occupations, in particular the higher-skilled among them. However, it is too early to say whether this shift to self-employment will be permanent. An earlier study of the Dutch Central Planning Bureau indicated that self-employment can also be a situation in between jobs, or as a stepping stone to a job in a different occupation.[163] Hence, even to the extent companies currently prefer to work with self-employed, higher collectively agreed pay rates may affect the choice of companies between self-employed and employees in the future.

Nevertheless, flexibility seems the greater driving force to work with solo self-employed, and profit maximization the greater driving force behind low pay rates. For example, temporary agency workers who worked largely full-time to handle freights at Schiphol Airport where hired as employees after a court decided that they needed to be paid the same rates as agreed for employees.[164] On the other hand, in Austria Foodora still employed most couriers as self-employed after the same pay rates were agreed as for employee couriers.[165] Although these are only two examples, they support the logic that self-employed would only be hired as employees when they are practically employees and were solely hired as self-employed to reduce pay rates, and that self-employed would still be hired as self-employed if flexibility was the driving force. One of the conclusions of the previously cited Dutch Central Planning Bureau report was indeed that all forms of employment relationships play their own role in the economy.

However, even if the employment relationship does not change, i.e. solo self-employed are only hired as employees if they were practically employees in the first place, higher pay rates may be expected to have some further wider impacts. One such impact is that it increases the certainty of an adequate annual income. This in turn may reduce the need of precautionary savings. For Germany a lower consumption was only observed for people who were worried about their financial situation[166] whereas in UK and Australian studies found that greater job insecurity significantly reduced consumption.[167] Since solo self-employed have less work security than employees, one might expect the impact of increased certainty about adequate income to be closer to those found in UK and Australian studies than to those found in Germany, where atypical work forms are less common.

Consumer spending in turn contracts in downturns,[168] The European Central Bank cite a few authors that precautionary savings are procyclical,[169] reinforcing the business cycle (lower earnings leading to lower consumption and in turn to lower earnings of others).

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[162] Foccacci, C.N. and E. Santarelli (2021), Job Training, Remote Working, and Self-Employment: Displaced Workers Beyond Employment Hysteresis, GLO Discussion Paper, No. 780, https://www.econstor.eu/handle/10419/229652

[163] CPB (2011), Labour Market Flexibility in the Netherlands; the role of contracts and self-employment. https://www.cpb.nl/sites/default/files/publicaties/download/cpb-book-labour-market-flexibility-netherlands_0.pdf

[164] See http://persberichten.deperslijst.com/82581/fnv-uitzendkrachten-schiphol-kunnen-flinke-nabetaling-tegemoet-zien-juridisch-bijzondere-uitspraak.html

[165] See https://www.eurofound.europa.eu/data/platform-economy/records/foodora-employees-found-works-council-in-austria-foodora-mitarbeiter-grunden-in-osterreich

[166] Klemm, M. (2012), Job Security Perceptions and the Saving Behavior of German Households, http://repec.rwi-essen.de/files/REP_12_380.pdf

[167] Benito, A. (2006), Does job insecurity affect household consumption?, Oxford Economic Papers 58 (2006), doi: 10.1093/oep/gpi041, https://www.jstor.org/stable/3488818?seq=1

Bowman, J. (2013), How Does Job Insecurity Affect Household Consumption in Australia? University of New South Wales thesis for the Degree of: Honours in Economics, https://melbourneinstitute.unimelb.edu.au/assets/documents/hilda-bibliography/student-essays-dissertations/JBowman.pdf

[168] Adema, Y. and L. Pozzi (2015), Business cycle fluctuations and household saving in OECD countries: A panel data analysis. European Economic Review, vol. 79, p. 214-233, https://doi.org/10.1016/j.euroecorev.2015.07.014

[169] Taken from https://www.ecb.europa.eu/pub/economic-bulletin/focus/2019/html/ecb.ebbox201906_05~6584f264d5.en.html, these are McKay, A., "Time-varying idiosyncratic risk and aggregate consumption dynamics", Journal of Monetary Economics, Vol. 88, June 2017, pp. 1-14; Bayer, C., Luetticke, R., Pham-Dao, L. and Tjaden, V., "Precautionary Savings, Illiquid Assets, and the Aggregate Consequences of Shocks to Household Income Risk", Econometrica, Vol. 87, Issue 1, January 2019, pp. 255-290; Heathcote, J. and Perri, F., "Wealth and Volatility", The Review of Economic Studies, Vol. 85, Issue 4, October 2018, pp. 2173-2213.

4. Final Conclusions

In a projection to 2030, about 20,5 million people (in full-time equivalents) are expected to work through platforms and about 14.6 million solo self-employed who are not farmers, shop owners or restaurant owners work through other channels. About half of the platform workers work on location, where platform workers have to be physically at certain places, and the other half work online. On location work is typically associated with low-skilled and low-paid work, and online work with higher-skilled work. About 5.4 million FTE of platform workers or 26% are expected to work in liberal professions in 2030. The solo self-employed working through other channels than platforms are also a diverse group, with an expected 5.7 million people or 39% of the solo self-employed expected to work in liberal professions in 2030.

While all of these are potentially affected by removing the chilling option of EU competition law on collective bargaining, it is important to be aware that it takes two sides to bargain collectively. As is the case for employees, employers are not always interested in a collective agreement. In addition, about half of the solo self-employed indicated in an online survey that they could bargain better working conditions individually, with a similar percentage for solo self-employed platform workers.

Taking account of this, it is estimated that working conditions would improve for about 6.8 million platform workers after removing the chilling effect of EU competition law, and for an additional 4.1 million people if all solo self-employed are allowed to bargain collectively (a total of 10.9 million in policy option 4). Over 90 per cent of the solo self-employed who do not work through platforms are hired by enterprises with less than 10 employees. Hence, only removing the chilling effect of EU competition law for collective bargaining with larger undertakings (policy option 2) is estimated to result in improved working conditions for only 200 thousand solo self-employed not working through platforms. If the chilling effect is removed for all self-employed and platform workers except those in liberal professions, the number of people expected to profit from a collective agreement drops from 10.9 million (policy option 4) to 9.3 million (policy option 3).

It is expected that collective bargaining increases pay rates for those who cannot bargain better working conditions individually on average by 15%. However, for very low pay rates (equivalent to about EUR 7 per hour), pay rates are estimated to increase by 40%. Of the expected 15% pay rate increase, about 85% is expected to be passed on to consumers. Since the maximum number of 10.9 million self-employed and platform workers expected to be covered by a collective agreement is only a small part of the total workforce, the resulting price increase is expected to be limited to 0.15% to 0.24% depending on the policy option, compared to the chilling effect variant.

Of the solo self-employed not working through platforms, about one third is at risk of poverty. A pay increase of 40% would elevate one third of these out of poverty. Besides the self-employed, on average three additional household members would be lifted out of poverty at the same time. This pay increase in addition increases the certainty of adequate income at annual level and is expected to reduce the need of precautionary savings in economic downturns. Although this would theoretically make the economy more stable, any effect is likely small due to the relatively small number of people affected.

5. Annexes

Annex 1 – Country-level reports
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