

Digital Age
**Employment and working
conditions of selected types of
platform work**
National context analysis France

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

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Contents

Introduction	1
Overview	1
Regulatory frameworks	7
Formal relationships	16
Organisation and representation in platform work	22
References	
Annex: Platforms mentioned in text	

Introduction

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

There is no uniform definition for platform work or related concepts in France. For this report, platform work takes its definition from Eurofound (2018) as follows:

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

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

This working paper is the country contribution for France for Eurofound’s research project ‘Digital age: Employment and working conditions of selected types of platform work’. It explores the context of platform work in France in terms of the applicable regulatory frameworks as well as the organisation and representation of platform workers in the country.

The analysis is based on desk research and seven semi-structured interviews with experts from academia (2), policymakers at national and local level (3) and representatives of employee and employer organisations (2) between December 2017 and January 2018.

Overview

Knowledge of platform work in France is incomplete and fragmented. A lack of statistical data was highlighted by all interviewed stakeholders. It should be noted, however, that awareness about platform work has grown rapidly over the past few years. Numerous public reports have been issued, social partners have started to reflect on the rights of platform workers and a first, although incomplete, regulatory framework has been set up by Law No. 2016-1088 of 8 August 2016. In contrast, academic research lags behind: no overall studies on platform work have been published.

Variety of platforms

Platform activities fall under the overarching category of the ‘collaborative economy’, which includes various types of platforms, with some comprising work-related activities. This broad approach blurs the boundaries of what platform work comprises in France.¹ No large-scale statistical analysis was ever conducted on this topic specifically nor within terms that would fit the present report’s methodological framework. Reports and data in France usually focus on the broader scope of the ‘collaborative economy’. The fact that platform workers do not have their own specific economic or employment

¹ For a global picture, see the [Observatory for Uberisation \(L'Observatoire de l'Ubérisation\) \(in French\)](#).

category, especially with no obligation to register as such², makes it difficult to ‘filter out’ platform work of the data on the collaborative economy.

IGAS (2016) provided an attempt to categorise platforms under seven categories: sharing platforms on which users mutualise an asset (AirBnB, BlablaCar), organised service operators which deliver professional standardised services (Uber), jobbing platforms allowing users to benefit from at-home services (SuperMano), electronic cooperatives integrating production, consumption and distribution techniques taken from the social economy (La Ruche qui Dit Oui), marketplaces allowing the sale of physical or digital objects (Price Minister), freelancing platforms pairing an offer and a demand for services with high added value (Hopwork), and micro-tasking platforms putting into contact, mostly on an international scale, offer and demand for a micro task (Amazon Mechanical Turk).

The role of platforms in France is diverse. Not all of them concern platform work as understood for the purpose of this report. Some platforms belong to the ‘peer-to-peer economy’³ based on sharing and equality between actors. Other platforms have a business-oriented approach and occupy an intermediary role between users (service providers/good dealers on one side, clients on the other side). Platforms mainly comprise young businesses. According to official data on France almost 80% of platforms have been created since 2008, and 50% are less than three years old (IGAS, 2016). In France, the value of transactions between platform workers and final users amounted to approximately €7 billion in 2015. Since 2012, the value of transactions has grown by 80%. Airbnb (which falls outside the scope of this study) and Uber together totalled €1 billion in 2015. Market places generate most of their business volume, approximately €5.5 billion. In 2015, platforms created approximately 2,500 direct jobs⁴, even if not all of them were platform workers as such.

Platform workers’ profiles

France is one of the world’s leaders in the platform economy (Pipame, 2015). BlaBlaCar, the French ride sharing service, has become a top leader. That being said, jobs created by this type of platform are typical, traditional jobs and not platform work assignments. Even though some statistics are available, caution should be exercised when interpreting them. The following interesting elements on platform work were taken from the report on ‘collaborative consumerism’ practices as published by the French Ministry for the Economy and Finance in 2014 (Pipame, 2015):

- In 2015, Airbnb, Uber and Malt (formerly Hopwork) accounted for 174,000 platform workers in France.
- Self-employment has not grown significantly in France over the past few years, which implies that platforms have not destabilised the French job market, even though many companies have been set up in the transport sector since 2014, and many are likely to be linked to platform work assignments.⁵

² As will be discussed later, most platform workers fall under the status of ‘micro-entrepreneur’, but they are not identified within the larger group of self-employed persons.

³ The ‘peer-to-peer economy’ refers to situations where two individuals interact directly with one another to buy or sell goods or services.

⁴ Excluding interim and fixed-term jobs.

⁵ Firm conclusions cannot be made owing to the way in which the statistics are calculated, for example, the French National Institute of Statistics and Economic Studies (*Institut national de la statistique et des études économiques*, INSEE) has not yet considered platform work.

- Multi-activity, referring to persons who perform more than one professional activity, has been stable in France since 2011, which may lead to the conclusion that the impact of platform activity on multiple jobs has been overestimated (see also DARES (2016)).
- Some 5.2% of French platform workers earned at least 50% of their income from the ‘collaborative economy’. The figure goes up to 12% among those aged between 25 and 34 years old.
- The platform economy is a way to reduce unemployment, especially in some sectors where workers have been able to access (re-)employment thanks to opportunities created by platforms, such as services for individuals/parcel delivery-related activities.
- The platform economy increased the inequality gap between jobs, such as between highly qualified and remunerated jobs, and low quality and low productivity service jobs.

It is difficult to identify the profile of a platform worker in France. It seems that among those platform workers who set up a business to benefit from platform work, only a minority have earned a substantial income from such an activity. A study showed that the typical profile of a platform worker was to be self-employed, engaged in multiple professional activities and earning only a supplementary income from this activity (IGAS, 2016). All in all, platform workers appear to be workers who view platforms as an opportunity to enter the job market, find an additional source of income or have flexibility as regards working hours. Another survey conducted by Terrasse (2016) determined the profile of 4,500 couriers using the platform Stuart. Courier services are provided on foot, by bike or motorised vehicles. The main conclusions were as follows:

- more than 60% of platform workers delivering on foot or by bike were under 30 years of age; of which 39.2 % were students, 42% were jobseekers and 18.2 % were employed;
- platform work was an additional source of revenue for most of these platform workers; The platform workers delivering by motorised vehicles (which requires a driving licence) are generally older and are most often employed or self-employed (21.3% were self-employed having set-up their own company, 55% were employed (of which 2/5 were professional couriers employed by the first category of self-employed with their own company) and 23.6% were jobseekers);
- most motorised couriers combined various professional activities. This is known as the multi-activity phenomenon.

However, these findings must be interpreted with caution, as they only correspond to one specific platform in one specific sector. As will be explained below, contrary to popular belief, platform workers are not necessarily self-employed in France.

Debate on the labour market impact of platform work

In France, Uber and Deliveroo are the most visible operators of the platform economy. The public debate on platform work grew in France when Uber taxis began to be seen on the streets of Paris without any form of regulation in place. This raised questions regarding the working conditions, status and incomes of drivers, as well as the risks of unfair competition, to the detriment of licensed, official taxi drivers – the number of which is limited in Paris – who have to pay financial charges that Uber taxis do not have to pay. As a result, the French parliament passed a law setting out specific rules applicable to all operators exercising taxi-driving activities via platforms. Following controversies due to Uber’s appearance in France, more general issues centred around platform work were raised.

- Do platform workers have decent working conditions and pay?
- Does the platform economy threaten the ‘employee model’?
- Is platform work becoming a typical way of accessing the job market?

- Will platform work become a form of activity tailored to certain population groups, such as students and retirees?
- Is the principle of fair competition between traditional operators and platforms being respected (MEDEF, 2016)?

The observations made on the impact of such platforms on the French labour market still leave many questions unanswered. One of the questions raised was whether platforms contributed to reducing unemployment. The representative of the French General Confederation of Work (*Confédération générale du travail*, CGT) said platforms do not contribute to reducing unemployment. To come to such conclusion, they only refer to the rising unemployment rate in France over the last years. The *Mouvement des entreprises de France (MEDEF)* (the Movement of the Enterprises of France), the main French employer organisation, sees platform work as an opportunity to create new jobs in the country (MEDEF, 2016). In an internal report, MEDEF strongly encourages the authorities to secure the classification of ‘self-employed’ activity for platform work in order to avoid disputes before labour courts (which purpose is to seek reclassification in employment contract). This request has been taken on board by the French government in the law proposal of 27 April 2018 discussed before the French Parliament mid-2018.

Other questions are related to how the ‘subordinate employment’ French model would react to platform activity and to rights as regards working hours, working conditions, health and safety, pensions and minimum income that would/should be granted to platform workers.

Some **trade unions** seem to perceive platform work as another negative illustration of the structural evolution of labour in France, however, they are still reflecting on this. Work activities are being divided between an increasing number of actors outside the company through outsourcing processes. According to the trade unions, the organisation of work is becoming less collective, more dispersed and more collaborative. The representative of the CGT stated that the myths of freedom and work autonomy were promoting the idea of platform work.

One of the striking consequences of platform work is the resurgence of an old form of employment, ‘on-call work’. Since the early 20th century, lawmakers have amended French labour law to fight against this type of employment. This pattern of returning to the past is considered a threat to the French labour market model which grants each worker a status guaranteeing a decent and stable income combined with social protection rights (Gamet, 2015). Trade unions’ concern with a potential loss of regulation consecutive to the democratisation of on-call work tends to refrain them from inquiring whether workers actually aspire or not for this form of employment.

Whereas the integration of workers into the ‘employed’ category has been an historical trend in France, workers are looking for more freedom and flexibility, and a better work-life balance. This explains why workers are attracted by forms of work that exclude a formal link of subordination (Le Monde, 2015). The interviewed trade union representative wondered whether this was a myth, while the academic expert interviewed suggested that it was rather a trend that was putting public authorities in an uncomfortable situation.

Early 2018, the French Confederation of Management – General Confederation of Executives (*Confédération française de l’encadrement - Confédération générale des cadres*, CFE-CGC), which represents employed executives (or *cadres*), is still reflecting on the position of economically dependent workers – workers who do not correspond to the traditional definition of an employee because they do not have an employment contract like dependent employees – and platform workers. At this stage, four options have been put forward:

- assimilating economically dependent workers into the definition of an employee;
- attributing a hybrid status to such workers that would offer less protection than being an employee, but more protection than being self-employed;
- establishing a pillar of fundamental social rights applicable to all workers;

- not changing current regulations, with each particular case being subject to a court's interpretation.

The CGT strongly favours a single employee status which is not based on the link of subordination, and which would embrace all workers, including platform workers. This single status would guarantee equal access to social rights and their transferability from one professional activity to another. The goal is to avoid precarious work and competition between workers, which would in turn lead to reduced social rights.

Policymakers have only recently started to reflect on platform activities, especially in light of concrete issues emerging, in particular the status of Uber taxi drivers and their relationship with the platform. After discovering that platforms could encourage social security fraud, tax evasion, undeclared work and income/VAT tax evasion, many public institutions, such as social security bodies, ministries and public agencies, conducted surveys and published reports. The French Ministry of Labour began to take an active role in this regard following Uber's arrival in France in 2011, leading to public authorities becoming increasingly aware of the need for targeted regulations.

Until 2016, no direct contact was made with platforms, and there was no clear policy on platform activities (IGAS, 2016). However, throughout 2016, the situation changed radically with the publication of a series of official reports. With the involvement of many stakeholders, such as platforms, trade unions, representatives of platform workers and independent academic experts, there were three significant reports that formed the basis for the new French regulatory framework, in particular the [French Law No. 2016-1088 of 8 August 2016 on work, modernising social dialogue and securing career paths \(in French\)](#).

- The report of Pascal Terrasse (2016), French MP, to the Prime Minister on the 'collaborative economy';
- The report of the IGAS (2016) on collaborative platforms, employment and social protection.
- The report of the French Directorate for Research, Studies and Statistics (Direction de l'Animation de la Recherche, des Études et des Statistiques, DARES) (2016) of the French Ministry of Labour on the challenges of the platform economy to growth, work, employment and public policy.

These reports provided a clear definition of platform activities and platform work, and brought together statistical data, albeit some data that was incomplete and imprecise. The reports also illustrated the economic background of platform activities, presented the legal issues at play, such as work, social security, tax and contract-related issues, and put forward a range of recommendations to the public authorities. Some of these recommendations were incorporated in the French Law No. 2016-1088 of 8 August 2016. The spirit of these public reports was to encourage platforms to develop sustainably, taking a balanced approach between the interests of businesses and workers into account.

Despite the flexibility of platform work, one downside is a lack of recognition of the skills acquired by platform workers. Some platforms already provide ongoing education measures, for example, Frizbiz (a platform for odd jobs) has established links with several education centres in France. Nevertheless, there is still a need to institutionalise the rights of platform workers in order to have their skills recognised. As a result, IGAS (2016) recommended that education should be encouraged among platform workers.

Various other options have also been put forward by policymakers (IGAS, 2016; DARES, 2016):

- In order for platforms to be legally recognised and allowed to operate, they should provide vocational education to platform workers.

- Platforms could voluntarily contribute to the personal activity account (*compte personnel d'activité*) of workers, which includes portable rights, or rights that are retained even if links with the platform end.⁶
- Promoting access to the validation of prior experience scheme (*validation des acquis de l'expérience*, VAE⁷); periods of platform work should be taken into account to ensure platform workers can access the VAE scheme.

The fight against fraud is another critical issue. A survey conducted in 2014 by Forbes-Observatoire de la Confiance, TNS-Sofres-Baromètre de l'engagement 2014 (BVA) asked the following question to (potential) platform workers: 'Would you or have you ever declared income from collaborative work?' 59% of respondents answered negatively, whereas 25% said they did not know. According to the survey, only 15% of the income of platform workers would be declared and taxed, and individuals would in reality perform a professional activity without complying with the applicable regulations (French Senate, 2015).

There is also an increased risk of fraud owing to the small and frequent nature of transactions occurring through platforms and a lack of awareness about tax rules. Many platforms operate in traditional sectors that are well-known for being sectors where fraud is rife, such as the transport and hotel sectors. The anonymity permitted by certain platforms, such as in the use of alias names, email addresses and Facebook profiles makes fraud easier. In addition, when platforms are located abroad, the risk of tax fraud is even greater.

As of early 2018, there was no duty for platforms to share income information with tax institutions, however, this duty is the subject of much debate. Several official reports have pointed to the need for clarity in the tax rules applicable to both platforms and platform workers (IGAS, 2016; DARES, 2016).

It is difficult to assess the view of the French public authorities on platform work. On the one hand, public authorities seem to take a defensive approach. Platforms are seen as a way to destabilise the labour market and the traditional social regulation system set up in numerous regulated sectors, such as taxi driving. However, in light of the economic crisis and high unemployment rates, public authorities also seem to look upon platform work as an opportunity. This ambiguous attitude explains why there is some public desire to legitimize platform work through regulation, and why these regulations seem to minimise the development of this type of work.

Law 2016-1088 of 8 August 2016 was intended to address the above-mentioned issues and certainly reflects the indecisiveness of policymakers. Although some of the law's provisions address platform work, this is only a side issue of the law. Regulations adopted in the platform work sector also seem more circumstantial than structural. As pointed out by one of the academic legal experts interviewed, some rights granted may even be seen as superfluous, such as already existing union rights. The adoption of Law 2016-1088 of 8 August 2016 is, however, a good step towards a structured regulation of this form of activity, as it takes into account its impact on workers.

Platform work is generally viewed from a mostly negative perspective in the public sphere. Stakeholders are only focusing on the bad effects of platform work. An academic expert at the Paris-Dauphine

⁶ A personal activity account is topped up by employers and can be used by employees at any time to access further education. The credits are attached to the person, as opposed to the work relationship. As a result, the rights are portable ([see Article L.5151-1 and subs. of the French labour code \(in French\)](#)).

⁷ The VAE is a legal scheme set up pursuant to [Article L6411-1 and subs. of the French labour code \(in French\)](#) to enable workers to transform their professional experience into an official qualification or degree.

University (Université Paris-Dauphine) interviewed as part of this study stated that the traditional structures of work and employment, such as employment contracts, make it harder to consider alternative forms of work structures.

Regulatory frameworks

The understanding of platform work in France requires combined knowledge of labour law, social security law and tax law. Other areas of law may also be concerned, but since they are incidental they will not be covered by this report: rules on business and competition law (since platform workers are likely to be self-employed workers), criminal law (for example non-declared work, violation of minimum wage requirements if the work relationship is requalified as employment); consumer law (since platform workers deliver a service to a client who may be an individual person); privacy and data protection rules.

Employment law

In employment law the work relationship classification is of major importance. This question is directly related to the nature of the platform activity. Platforms organise the relationship with their users as to minimise the risks of being classified as platform workers' employers. They want to be classified as 'electronic intermediaries'. They, therefore, refuse to be seen as transport companies, as home care service providers and so on. In French law, platform work falls uneasily between two possible regimes. The French legal binary distinction between salaried work and self-employment, leaving no room for intermediate statuses, is ill-adapted. The literature focuses on this issue and raises many questions. The questions focus on determining the nature of the work relationship between platforms and platform workers. Under which conditions would this relationship be an employment contract? Is a hybrid 'employment/self-employment' form of employment necessary in French law or should a unique employment status apply to all workers whether they are employed or self-employed (Barthélémy and Cette, 2015)?

Multiple forms of employment contracts take into account the evolutions of work patterns. However, at this stage, platform work has not led to any specific regulatory measures on employment contracts. The law of 8 August 2016 on platform work, which will be analysed in this report, applies only to self-employed platform workers.

At present (early 2018), only a few public authorities' regulations exist. Platform work is not a subject for collective agreements. There are no soft law measures.

Platform work is a new topic for national regulation. An important reform of the labour law of 2016⁸, codified in the Labour code (articles L.7341-1 to L.7342-6), includes specific provisions aiming to better protect platform workers. Decree 2017-774 of 4 May 2017 and administrative Circular of 8 June 2017 outline the details of the law.

The 2016 regulatory framework pursues the following key objectives:

- to extend the social security coverage against accidents at work to platform workers. The system in place is voluntary and includes the payment of corresponding social security contributions by platforms (see below under 'health and safety');
- to facilitate the exercise of collective action rights (see below under 'organisation of platform workers');
- to facilitate access to continuing vocational education and validation of acquired experience.

⁸ Law 2016-1088 of 8 August 2016.

The law 2016-1088 of 8 August 2016 applies to self-employed workers who, for the purpose of their professional activity, have recourse to one or more electronic contact platforms.⁹ Self-employed workers who cooperate with a platform fall within the scope of the law. Platforms are defined as 'companies which, irrespective of their place of establishment, put into electronic contact, with the purpose of selling a good or a service or exchanging a good or a service'.¹⁰ Platforms targeted by the 2016 law must:

- determine the main features of the good/service. This refers to the conditions and technical modalities of the service provided or the technical features of the good for sale; and
- set a price based directly or indirectly on a scale, on a remuneration scheme or any other reference base, in order to set the value of the service provided or of the good sold which must be charged by the independent worker to the client with whom he/she has been put into electronic contact.¹¹

The 2016 reform aimed to set a legal framework for collective actions. Two methods are used to achieve this. First, pursuant to article L.7342-5 of the labour code, '*collective actions whereby workers refuse the performance of their services with the view of defending their professional claims, cannot, except in case of abuse of rights, be a cause of contractual liability. These actions cannot be a reason for breaching the contractual relationship with the platforms nor can they be a justification for penalising them for the exercise of their activity.*

It is interesting to note that the law promotes collective action rights through the combat against adverse treatments. Collective action is a new right granted to self-employed platform workers. It is required that actions undertaken are:

- of collective dimension, therefore involving at least two platform workers;
- organised, although the requirement in terms of organisation should be light, not excluding for instance spontaneous actions;
- related to the defence of 'professional claims';
- taking the shape of non-performance of the service. Therefore, if the law is interpreted strictly, defective or partial performance should not be among the collective actions covered by the law.

Such collective actions are not subject to any prior period of notice.

Second, '*platform workers have the right to form trade unions, to join one and to have their collective interests defended.*'¹² Trade union freedom is a constitutional principle. The law is therefore a mere transposition of that principle. If several of their members work for the same platform, trade unions can establish a local branch (*section syndicale*) which will defend the interests of its members. In French law, trade unions can not only defend their members, they can also defend all other workers.

It is not certain that the new legal framework will be sufficient to concretely encourage platform workers to undertake collective actions. The main trade union initiatives could be decisive.

With respect to the access to continuing education and the validation of acquired experience, the 2016 reform transposes some of the suggestions from the IGAS public report (as described above). The

⁹ Article L.7341-1 labour code.

¹⁰ Article 242 bis, of the tax code (Law 2015-1785 of 29 December 2015).

¹¹ Circulaire Interministerielle N° DGT/RT1/DGEFP/SDPFC/DSS/2C/2017/256 of 8 June 2017, section 1.1.

¹² Article L.7342-6, labour code.

following general principle is also set: platform workers have the right to continuing education.¹³ To make this right effective, a tax already applicable to all employers¹⁴ is extended to platforms.

‘Upon request’, platform workers take advantage of the ‘validation of acquired experience’ scheme¹⁵. Costs incurred by the recourse to this process are normally at the expense of the platform (with a maximum amount of about €1,176 per worker). A financial compensation for the loss of revenues due to the involvement of the platform worker in the process of the validation of the acquired experience is also provided by the law. This financial compensation is, however, quite low: it is equivalent to 24 working hours paid at the legal minimum wage rate.¹⁶

If the worker carries out his/her activity for more than one platform, the tax, the reimbursement of costs incurred by the ‘validation of acquired experience’ process and the financial compensation for the loss of revenues is shared between the platforms.¹⁷

The platform worker must send the platform a claim for reimbursement of costs. The claim is free and can be filed electronically. Platforms must inform their platform workers that they are entitled to file a claim for reimbursement of costs.¹⁸

Platform workers may also benefit from the system that covers training-related expenses and is applicable to all self-employed persons.

Social protection

As mentioned above, when it comes to platform work, the first point to be addressed in social law, deals with the work relationship classification. The nature of the work relationship bears also an impact on the platform workers’ social protection.

French social security law has been structured around the difference between employees and self-employed persons. Whereas employees enjoy a complete protection, the self-employed are subject to less protective rules (and lower contributions). The social protection gap between the two has, however, gradually decreased: the social protection reforms carried out in France over the last 20 years go towards an unification of their social protection status. In this context, the question is whether it is really worth insisting on the assimilation of platform workers to ‘employees’. Instead, it can be envisaged to introduce a mixed status where platform workers, who would remain classified as self-employed persons, are offered social protection rights better than those habitually provided to self-employed persons. Those rights would approach (without being identical) to the social protection rights granted to employees.

The emergence of platform work stimulated the reflection of public authorities on the opportunity to pursue the convergence between the social protection of employees and self-employed persons (DARES, 2016). Registration under the most basic self-employed status (‘micro-entrepreneur’) is encouraged by law since 1 January 2018. Because most platform workers work under this status, this extension can be interpreted as an implicit way of supporting platform work. It is also combined with the granting of specific social security rights. Furthermore, according to article L114-19-1 of the Social Security Code (Law 2015-1785 of 29 December 2015) referring to companies mentioned at Article 242 bis of the Tax code, platforms must inform their users who perform transactions of their social obligations.

¹³ Article L.7342-3, labour code.

¹⁴ Article L.6331-48, labour code. The average amount of that tax is €95 per year and per worker.

¹⁵ Article L.7342-3, labour code.

¹⁶ Article L.7342-3 and D.7342-3, labour code.

¹⁷ Article D.7342-4, labour code.

¹⁸ Article D7342-5, labour code.

In the French social security system, all residents, whether having a professional activity (employed or self-employed) or not, are covered against healthcare and family risks. Hence, non-active persons or persons with low professional income receive the same healthcare benefits (medical treatments, medicines, hospital care) and the same family benefits as any other insured individual. Furthermore, residents with low incomes are entitled to free supplementary healthcare coverage which guarantees an entirely free protection. This means that platform workers are entitled to full family benefits and to healthcare coverage.

When platform workers are registered as self-employed workers (for instance as micro-entrepreneurs), they are affiliated to the *sécurité sociale des indépendants* scheme (formerly the *régime social des indépendants - RSI*) (the French self-employment scheme). In this case, there are no minimum working hours or income conditions. A self-employed platform worker who works occasionally is insured. He/she must pay contributions at a 22.7% flat-rate and is entitled to social security benefits, particularly pensions. By comparison, the employees' contribution rate is 25% on average. The employer must also pay contributions which amount between 20% and 40% of the gross salary¹⁹. However, compared to employed platform workers, self-employed workers do not enjoy unemployment and accident at work/occupational diseases (AW-OD) statutory protection, but a voluntary opt-in scheme exists. Law 2016-1088 of 8 August 2016 did, however, provide platform workers with the possibility to join a voluntary scheme.

The healthcare cash benefits and retirement pensions are also less favourable than in the general scheme applicable to employees. The health care cash benefits are granted only after a period of one year of insurance to self-employed persons who earn more than nearly €3,900 per year. The benefit amount depends on the length of sickness leave (more or less than six months). Self-employed workers classified as micro-entrepreneur receive a pension directly based on the income drawn from their activity. The number of trimesters of contributions is another parameter. They must earn at least €12,000 for a given year to be credited four trimesters of contribution.

Health and safety

In January 2018, the French National Research Institute for Research and Security (*Institut national de recherche et de sécurité*, INRS) published a [report \(in French\)](#) on the impact of platform work on health and safety at work, with a view to anticipate to the evolution of platforms over the next 10 years. Only recently studies on the existence of accident at work/occupational diseases (AW-OD)-related risks specific to platform workers have been conducted (INRS, 2018). The precariousness of platform work, the risks incurred by multiple jobs, the grading system of clients and the volatility of incomes are all sources of stress, which can lead to further issues, in particular psychosocial problems (IGAS, 2016).

Before the law of 2016, the coverage against the AW-OD risk, on which the law focuses, was as follows: employed workers benefited (and keep benefiting) from the coverage provided by the general scheme; self-employed did not (and still do not have) any specific coverage provided by the *sécurité sociale des indépendants* scheme (former RSI scheme), even if they remain covered for incurred healthcare costs and despite receiving benefits in cash (a replacement income) if they have the status of 'artisan' or 'retailer'. Although there is a voluntary AW-OD scheme for self-employed persons, in practice it only covers a limited number of workers, almost exclusively from the medical sector. Therefore, for most self-employed platform workers the only existing coverage against accidents at work and occupational diseases comes from civil liability mechanisms, which are very difficult to implement. The need for a protection of platform workers against AW-OD became a priority for public authorities.

¹⁹ Rates are available on the URSSAF website: <https://www.urssaf.fr/portail/home/taux-et-baremes/taux-de-cotisations/les-employeurs/les-taux-de-cotisations-de-droit.html>

With the 2016 reform, the French labour code has been amended as such to create a system of voluntary insurance for platform workers funded by the platforms: If the worker takes out an insurance for accidents at work or joins on a voluntary basis the social security scheme on accidents at work, the platform must pay the corresponding contribution within a limit set by the decree. However, *‘this obligation is not applicable when the revenue of the platform worker is below a certain amount set by the decree.’*²⁰

In practice, it means that:

- the platform must pay the contribution on behalf of the platform worker who chooses to be insured, only if the annual revenue from that platform amounts to at least €5,165²¹ (for 2018),
- the contribution of the platform cannot exceed the contribution calculated on the basis of the minimum wage.

The platform is exempt from all obligations if the platform worker subscribes to a collective insurance contract provided by the platform, if this contract offers at least equivalent rights compared to the voluntary insurance scheme. Voluntary initiatives are being undertaken by some platforms. Deliveroo offers free civil liability insurance to bike couriers which is applicable in case of work accidents (Les Echos, 2017). This insurance acts as a supplementary healthcare coverage. It includes healthcare expenses, dental treatments, hospitalisation costs, a maximum of €1,000 compensation for the interruption of activity (and the loss of income) and a maximum of €25,000 invalidity/death grant. Uber also provides an equivalent insurance for its self-employed platform workers (Les Echos, 2017).

This is an unusual social insurance scheme: affiliation is not compulsory and depends on the platform worker’s decision. Platform workers are strongly encouraged to join this scheme as the final contribution related-costs will not be borne by them.

However, the system is not ideal, as the platform worker must pay the contributions upfront before claiming reimbursement from the platform. According to the administrative procedure²², the claim for reimbursement is free and can be electronically processed. Platforms are required to inform their workers of their entitlements to claim reimbursement for their contributions. When the platform worker works for more than one platform, each platform must partly refund the contributions paid by the worker.

Box 1. Insurance contributions

A bike courier exercises his activity for only one platform. His revenue amounts to €5,500 annually. The minimal base for voluntary insurance is €18,336 per year and the contribution rate is 3.2%. The contribution to be paid (and subsequently refunded by the platform) is €586.

A bike courier works for two platforms. For platform A, his revenue amounts to €4,500. It amounts to €5,500 for platform B. Since the revenues for platform A are below the ceiling, platform B will have to pay the contributions.

A bike courier works for two platforms. For platform A, his revenue equals to €6,000; it amounts to €5,500 for platform B. Platform A will pay 52% of the €586; platform B will pay 48%.

²⁰ Article L.7342-4, al.1, labour code.

²¹ 13% of the ‘plafond annuel de sécurité social’ (modified every year).

²² Circulaire Interministérielle N° DGT/RT1/DGEFP/SDPFC/DSS/2C/2017/256, 8 June 2017, section 2.1.

Special taxation rules

According to article 242 bis, II of the *Code Général des Impôts* (Tax Code), platforms, crowd sharing services, online marketplaces and such must inform their users of the gross revenues generated from their activities to facilitate tax declarations.

A report from the French Senate (2015) on the collaborative economy pursued the objective of establishing a fair tax system. It recommends distinguishing between taxable professional income and non-taxable small or occasional income generated from platform work. The main suggestions of the report are to arrange an automatic declaration of income system with the assistance of platforms and to exempt revenues below €5,000 per year from taxation. The question remains whether a specific tax system should apply to platforms. It must be recalled that the existing tax regulation already offers adequate solutions. For example, revenues drawn from Airbnb type activities are exempted from taxation if they fall below a certain ceiling.²³ Similarly, occasional sale of goods is not taxed if the price is below €5,000.²⁴ Income of micro-entrepreneurs is subject to specific income tax rules: the taxation base includes a deduction of 34% or of 50% (services) or 71% (sales) of the income²⁵. Income tax rates are the same for employees and self-employed persons²⁶. The rates depend on the annual taxable income: from 14% (between €9,800 and €27,000) up to 45% (above €153,000).

Platform activities which generate revenues corresponding to cost-sharing (for example co-driving) are exempted from taxes. It is necessary for platforms to ensure that the revenues received do not exceed the charges relating to the activity (for example, in the case of co-driving, this refers to the costs of gas, tolls). The notion of ‘cost-sharing’ has been outlined by the French tax administration ([BO des finances publiques et impôts](#)) on 30 August 2016. It is specified that the tax exemption does not apply to revenues from cost-sharing received by workers in the framework of their professional activity. Therefore, platform workers should not be eligible to the tax exemption.

To provide clear and fair information on tax and social obligations to platform workers, platforms can use information made available by public authorities. Platforms must provide an electronic link to public administration websites. Furthermore, every January, platforms must provide to their users a summary of the gross amount of transactions and the transactions made through them.

These obligations are applicable to users who reside in France, or who provide services or goods on the French territory. Every year before 15 March, platforms must have certified the compliance with these obligations by a third independent party (article 242 Bis, Tax Code).

In short: Summary of social protection and taxation of platform workers

The status of employee or self-employed worker determines the platform workers’ social protection coverage and the taxation of his/her revenues. In short this can be summarised as follows:

- unemployment insurance: only employees covered
- pensions: employees and self-employed are covered, but the coverage of the latter is not as good as that of the former

²³ Article 35 bis Tax Code (€760/year – primary home) or Article 50-0 Tax Code (€305/year - secondary home).

²⁴ However, if the good has been purchased for the purpose of being sold, taxation applies in full.

²⁵ By comparison, for other self-employed persons, there is no deduction whereas employees enjoy a 10% deduction before taxation.

²⁶ Self-employed persons who are treated as companies are subject to the corporate tax system. Platform workers do not belong to that category.

- protection for accidents at work and occupational disease:
 - full coverage of employees
 - in general, no coverage of self-employed persons (except voluntary insurance)
 - if platform workers choose to take insurance and earn revenue on platforms above a certain annual threshold, the platform(s) have to reimburse the contributions
- protection for healthcare and family risks: all residents covered, irrespective of employment status; healthcare cash benefits less favourable for self-employed
- taxation: income tax rates are the same for employees and self-employed²⁷. The rates depend on the taxable annual income: from 14% (between €9,800 and €27,000) up to 45% (above €153,000). For employees, there is a 10% deduction on the tax base; for self-employed who hold the micro-entrepreneur status, the taxation base includes a deduction of 34% or of 50% (services) or 71% (sales) of the income.

Litigation on platform work

Registering to be a self-employed worker presumes that the worker is a self-employed person. This legal presumption is applicable to micro-entrepreneurs. That being said, the presumption set out in [article L.8221-6 of the French labour code](#) can be rebutted. As explained in the legal provision, a micro-entrepreneur is deemed to be independent when the working conditions are exclusively set out by the micro-entrepreneur or by the contract established with the contract giver (*donneur d'ordre*) (see also the circular of the Ministry of Labour of 8 June 2017). Accordingly, self-employed work is characterised by the fact that workers are free to take the initiative to create their activity or to take on an existing activity. This enables the workers to remain in control of organising their work, the materials needed and the client base. A micro-entrepreneur bears the economic risks of the activity. Therefore, if the platform worker can establish that, in practice, he/she is under the permanent authority (*subordination permanente*) of the platform, the worker may be able to raise an issue at an employment court, owing to the fact that the relationship is in fact governed by an employment contract. In such a case, all rights attached to the status of 'employee' would be applicable to the platform worker.

According to well-established case law, the classification parties give to their work relationships are not legally binding for courts. Courts can go beyond the formal contractual relationship and verify whether self-employment does not hide, in practice, employment. The concept of 'employment' (*travail salarié*) is not specifically defined in French labour law, but according to settled case law of the *Cour de cassation*, a link of authority (*lien de subordination*) is the main criterion.

Some cases regarding platform work have been brought before courts with the purpose of challenging the self-employment classification.

In a first series of cases²⁸, the *Union de recouvrement des cotisations de sécurité sociale et d'allocations familiales* (URSSAF), the French social security institution in charge of levying contributions, was the claimant before both criminal and social security courts. Before the criminal court it argued that since Uber drivers are employed workers, the platform is guilty of undeclared work. Before social security courts, the URSSAF claimed payment of social security contributions. Whereas the criminal procedure is still pending, the social security court rejected the request for procedural reasons.

²⁷ Self-employed persons who are treated as companies are subject to the corporate tax system. Platform workers do not belong to this category.

²⁸ Reported by *Semaine Sociale Lamy*, issue 1725 (30 May 2016) and 1767 (2 May 2017), ed. Wolters-Kluwer.

In another series of cases, platform workers were the claimants. They argued that their contracts with the platform are, in fact, employment contracts. On 14 April 2017, 10 Uber drivers filed a legal action before the *Conseil de Prud'hommes* (Labour Court) of Paris. These actions are still pending. In the meantime, in similar proceedings, the Court of Appeal of Paris ruled in a case of 13 December 2017²⁹ that taxi drivers' contracts with their platform ('Le Cab') had to be reclassified into employment contracts. The Court of Appeal considered several factors: the platform had a power of sanction, namely the right to breach the contract with drivers in case of insufficient number of connections, and the drivers were in an exclusive relationship with the platform with its own clients. The conclusion of the Court of Appeal was that the exclusive purpose of the organisation of the activity was to artificially create an appearance of cooperation between a platform and a self-employed worker, whereas, in reality, there was actually an employment relationship. The platform workers were entitled to minimum wage payments, overtime payments, payments of the equivalent of annual leave and financial compensations for the professional costs incurred by the platform activity. Reversely, some courts have ruled that the platform workers' claims of reclassification were unjustified. The Court of Appeal of Paris, in a case of 7 January 2016 as well as a case of the *Conseil de Prud'hommes* of Paris of 20 December 2016, ruled that platform workers could manage their working time independently and could freely decide to exercise their activity for a company from the same sector.³⁰ A Court of Appeal of Paris case of 12 October 2017³¹ and two cases of the Court of Appeal of Paris of 9 November 2017 also rejected the platform workers' claim (see Box 2).

Box 2. Two examples of platform workers who failed to gain reclassification of their contract

A self-employed (micro-entrepreneur) bike courier cannot claim to be an employee as he can choose the working days and hours as well as his rest periods; he does not have to attend meetings, trainings or any other event organised by the platform; he works using his own equipment, the platform providing only a bag, a phone battery, the phone application and work attraction with the platform logo. The official platform outfit is not a sufficient element to characterise the existence of a link of subordination. Finally, the courier was not subject to any exclusivity or non-competition clause and therefore could work for other similar service providers (*Court of Appeal of Paris, 19 November 2017, case 16/12875*).

A self-employed Uber driver cannot argue to be under an employment contract with the platform as he was entirely free to work or not; he could freely decide the days and times when he was willing to connect to the platform and therefore to work; the obligations he is subject to come from the necessity to comply with state regulations or platform contractual requirements (such as politeness, work outfit, cleanliness of the car). It does not establish the existence of a disciplinary power by the platform and sanctions due to the lack of connection to the platform. Financial penalties due to the non-compliance with the service contract and to a car accident the driver was held responsible for cannot be classified as disciplinary sanctions (*Court of Appeal of Paris, 19 November 2017, case 16/09647*).

The French *Cour de cassation*, the highest judicial court, has not yet ruled in matters of subordination in the context of platform work. It is unclear at this stage whether the platform made an appeal before the *Cour de cassation*.³² One question raised was whether the French *Cour de cassation* will modernise the criterion of subordination to take into account the concept of 'economic subordination'. In fact, this

²⁹ Not published.

³⁰ These cases are cited in *Conseil d'Etat* (2017).

³¹ Case 17/03088.

³² It might not be in the interest of the platform to bring the dispute before the *Cour de cassation*. If the ruling of the Court of appeal was upheld, the value of the decision would be much higher.

economic approach was formerly used in the 1930s before being abandoned. It is not impossible for the *Cour de cassation* to revive it. Secondly, this type of case relies on factual circumstances. No general consequence can be drawn for other types of platform work.

Another area of litigation concerns the classification of contracts between the platforms and the users. From the platforms perspective, contracts concluded with users are service contracts. The purpose of these contracts is to connect users with the supporting electronic tools. This analysis has been contradicted by the Court of Justice of the European Union in a case on 20 December 2017 concerning Spain³³, and transposable to France. The main obligation of the platform is to enable users to meet through the platform. Other contractual clauses typically include the right of the platform to close a user's account in cases of violation of the platform's rules and users' data protection.

The classification of the contracts is determining. The contract can, for example, be classified as a 'brokerage contract' (*contrat de courtage*) or as a 'mandate contract' (*contrat de mandat*) (Casu, 2017).

Box 3. Flower delivery platform: What is the classification of the contracts?

The platform connects clients (who wish to have flowers delivered) and delivery persons. The app finds the client's exact location and sends the nearest delivery person (which could be a student, a young professional etc.). According to the platform, there is a transportation contract between the users, whereas the platform considers itself as a third party. The platform interprets the contract it concludes with users as a *contrat de mise en relation* (linking contract). According to the *Syndicat National des Transport Légers* (SNTL) (the French federation for light transportation), the platform acts as a *commissionnaire de transport* (freight forwarder). This activity is regulated by law and requires, among other duties, to register at the freight forwarders registry. For the *Tribunal de Grande Instance of Paris* (civil first instance court), none of these classifications are correct. The contract is *sui generis*, in other words it is specific to the platform activity (Casu, 2017).

Discussion on new or update regulatory frameworks

Whether the above described social security reform provides sufficient social security protection to platform workers is still debatable. The situation of self-employed platform workers now appears to be better than that of other self-employed workers. However, specific issues are of concern to platform workers as they often receive low income from their activities. Their social security protection, therefore, needs to be improved. The following measures could be considered:

- The supplementary social security coverage could be improved. For example, some tax mechanisms aiming to facilitate the subscription of insurance contracts covering invalidity, death or incapacity at work should be envisaged. Public authorities encourage social partners to reflect on a system of voluntary additional social security coverage.
- When they are not the platform worker's employer, platforms should be encouraged by the law to contribute to social insurance mechanisms. For instance, platforms should be able to voluntarily affiliate the platform workers to the statutory AW-OD scheme.

³³ Case C-434/15, *Uber Systems Spain SL*: 'An intermediation service such as that at issue in the main proceedings, the purpose of which is to connect, by means of a smartphone application and for remuneration, non-professional drivers using their own vehicle with persons who wish to make urban journeys, must be regarded as being inherently linked to a transport service and, accordingly, must be classified as 'a service in the field of transport' within the meaning of Article 58(1) TFEU'.

- Negotiation by platforms of group insurance contracts in favour of the platform workers should be encouraged.
- Self-employed platform workers have no entitlement to unemployment benefits (unless they exercise an employed activity in parallel or have retained rights from a former employed activity). In this respect, the suspension of business activities for economic reasons could justify the creation of the unemployment scheme or their participation in the employees' 'regime general' scheme. Recently, in the framework of the extension of the unemployment scheme to self-employed persons, the national institution in charge of the unemployment scheme, the *Union nationale interprofessionnelle pour l'emploi dans l'industrie et le commerce (Unédic)* stated that it could be possible to implement a specific protection for some economically dependent self-employed workers like platform workers.³⁴

Formal relationships

Potential employment statuses under French law

The status of 'employee'

Even though there is no accurate information on the issue, most platform workers in France are self-employed. However, contrary to popular belief, **some platform workers are employees**. This may occur when platforms cooperate with companies that directly employ platform workers, such as Uber X, and when platforms employ platform workers directly, such as Viavita (managed by Crédit Agricole); a practice that occurs in the sector of services to individuals.

It should be noted that there is a list of activities that are legally presumed to be carried out by employed workers, and comprises 'domestic workers' ([see article L.7411-1 of the French labour code \(in French\)](#)). This regulation applies to platform workers.

In sectors where platform workers are highly qualified, it is in the interests of the platforms to offer employment contracts to attract workers. The status of 'employee' is also widespread in typical platform activities, such as parcel deliveries.³⁵

According to [article L.1221-1 of the French labour code \(in French\)](#), the normal and general contract that establishes a work relationship is an open-ended contract (*Contrat à durée indéterminée, CDI*). Apart from this contractual framework, which, as seems to be the case, is rather unusual in the platform work sector owing to widespread part-time activities, alternative options are limited. French law does not define relatively new forms of employment statuses, such as 'zero-hours contracts' or 'dependent contractors'. There are five possible ways to adapt existing forms of employment in order to expand the status of 'employee' to platform workers.

- **Option 1 – Introducing a wage portage (*portage salarial*) scheme for platform workers (IGAS, 2016)**

According to [article L.1254-1 and subs. of the French labour code \(in French\)](#), the goal of the wage portage scheme is to provide the status of 'employee' to a worker who, in practice, is self-employed. This scheme is based on a triangular relationship: the worker has an employment contract with a wage portage scheme company, and the said company has a commercial contract with a client company, which is found

³⁴ Dépêche AEF 578067, 15 January 2018.

³⁵ See the example of Stuart. 55% of its workers delivering with motorised vehicles are employees.

by the worker. The worker then provides services to the client company; the client pays the wage portage company, which, in turn, pays a salary to the worker and manages all administrative duties. According to [article L.1254-2 of the French labour code](#), this scheme only applies to highly qualified workers, such as engineers: the employee who has expertise, qualification and autonomy that allow him/her to look for his/her customers himself/herself and to agree with them the conditions to perform his/her service and of his/her price. The worker receives a minimum salary, the amount of which is set by a sectoral collective agreement.

The wage portage scheme is a practical way to expand the status of ‘employee’ to platform work. The law would, however, need to be amended in order to include the wage portage scheme in the context of platform work³⁶. This scheme would, therefore, comprise four parties instead of three: the worker, the client, the platform and the wage portage company. Wage portage companies could negotiate business contracts with platforms, and at the same time, offer employment contracts to platform workers who would deliver services to clients.

Box 4. SMart: an inspiration for wage portage schemes

Some 90% of riders for the delivery service Deliveroo used to have the status of ‘employee’ with the not-for-profit company SMart. The company was originally set up in Belgium, before expanding to France. SMart is not a wage portage company. It however offers a wide range of services to riders:

- guaranteed payment of wages;
- payment of social security contributions;
- civil liability and accident at work insurance.

The price of the service paid by the client to the rider includes the rider’s net salary, social security contributions, the insurance scheme and SMart’s fees (6.5%).

In 2016, SMart began working with Deliveroo. The contract stipulated a per-hour rate; a minimum guaranteed payment of three hours per day; reimbursement of the usage costs of the bikes owned by riders; and some of the maintenance costs of the said bikes. As of 19 October 2017, Deliveroo stopped working with SMart bike riders and now works only with self-employed platform workers.

Source: www.smartbe.be

• **Option 2 – Expanding the Universal Service Employment Cheque (*Chèque-emploi-service universel, CESU*) scheme ([See Article L1271-1 and subs. of the French Labour code \(in French\)](#))**

The CESU scheme has two main functions: first, it offers a system to declare a services sector employee; and second, it offers a system to pay the employee and their applicable social security contributions. The aim of the CESU scheme is to reduce informal work and make it easier for private individual employers to comply with social security obligations. Individuals who need assistance in their everyday life may already use services provided by platform workers. In principle, the final user must carry out all administrative work regarding the CESU payment.

In the context of platform work, this would result in the final user being the platform worker’s employer and paying the worker for each service provided by a CESU cheque. This technique may, however, not be compatible with existing online systems of payment of the platforms.

According to IGAS (2016), the CESU system could, however, become more attractive if the law would allow platforms to perform all the administrative formalities on behalf of the employer (the final user) and

³⁶ In the existing legal system, wage portage companies must exclusively perform this activity. Therefore, platforms cannot act as wage portage companies.

the platform worker. After the employer's registration completed, the platform could declare online the platform workers' wages on behalf of the final user (IGAS, 2016).

- **Option 3 – Adapting employee sharing schemes ([See article L.1253-1 and subs. of the French labour code \(in French\)](#))**

Article L.1253-1 and subs. of the French Labour code state that employers in the same sector may cooperate in order to recruit permanent employees who will alternately work for more than one company in a group. Each employer would be able to hire the worker in question separately. The workers' employer is the group itself, usually operating as an association, and the employment contract stipulates, among other things, the list of the potential users and the places of work.

To date, it seems that the employee sharing system has not been used for platform work. Nevertheless, it could be a suitable contractual model for platform workers cooperating with more than one platform. Platforms would join to form a group of employers. However, according to current law, applying the employee sharing system to platform workers is difficult owing to practical and regulatory reasons. Associations between platforms need to be established, and, in all cases, only platforms of the same sector could form a group. It would, therefore, be necessary to adapt the rules to the specificities of platform work, while finding ways to encourage platforms to establish formal links, even if they are competitors in the same markets (Eurofound, 2016). There would also be other challenges such as the pre-knowledge of users and workplaces.

- **Option 4 – Expanding the definition of a construction site contract (*contrat de chantier*) ([See article L.1223-8 and subs. of the French labour code \(in French\)](#))**

The purpose of this legal form of employment is to provide an open-ended contract to an employee who has been hired for a specific task or mission. According to [articles L.1223-8 and subs. of the French labour code \(in French\)](#), the employee is recruited for the duration of a construction site. However, as it is not possible to anticipate the duration of a construction site, the employment contract is open-ended. The end of the site is, therefore, a fair justification to terminate the employment contract. Entering into a construction site contract is, however, subject to the existence of a collective agreement in the sector, which to date, only exists in the building sector.

In order for a construction site contract to be applied to platform work, the notion of a construction site would need to be redefined, taking into account platform activities. The notion of a collective agreement would also need to be redefined, so as to allow platforms to enter into such contracts.

- **Option 5 – Expanding the definition of on-call work (*travail intermittent*) ([See article L.3123-33 and subs. of the French labour code \(in French\)](#))**

On-call work is an old, outdated form of employment. According to [article L.3123-33 and subs. of the French labour code \(in French\)](#), on-call work contracts with companies are only allowed when there is a collective agreement in place that allows for such contracts. They are used by businesses when the need for workers is permanent, but not necessarily needed at all times of the year. When an open-ended contract is drawn up between the parties, it must stipulate, among other things, the working periods and the distribution of the working time during these periods. The contract must also include a minimum annual working time.

The current law is ill-suited to platform work. If the law was amended to include the specificities of platform work, on-call work could be a suitable form of employment for platform work.

Self-employed platform workers: the dominant status

As mentioned earlier, self-employment dominates platform work. The status of ‘**micro-entrepreneur**’, which is the most basic status among the various statuses of self-employment, is well suited to platform workers, even though it was not designed for this reason.

The status of micro-entrepreneur (formerly ‘auto-entrepreneur’), as defined in [article L.123-1 of the French Commercial Code \(in French\)](#), was established by [French Law No. 2008-776 of 4 August 2008 \(in French\)](#). Its original goal was to allow workers to perform additional work to top up the salary of another job or to provide work for those who are retired, studying or looking for work. It is easy to register as a micro-entrepreneur, and it can be done online. A micro-entrepreneur does not constitute a company with a legal entity, it is a simplified way to perform freelance activities. In practice, a micro-entrepreneur usually registers their place of work as their place of residence. Tax and social security requirements are not burdensome from an administrative point of view, and contributions are lower³⁷. VAT rules are also specific and may create unfair competition in favour of micro-entrepreneurs.

Box 5. An example of unfair competition between micro-entrepreneurs and other businesses

Tage is an established company that is required to pay value-added tax (VAT). The services sold to the client amount to €1,000 before VAT. As the standard VAT rate is 20%, the client will have to pay a total of €1,200. A micro-entrepreneur, on the other hand, would only charge €1,000 as he/she is VAT-exempt. While Tage needs to have a certified accountant to follow up and certify its annual accounts, such requirements do not exist for micro-entrepreneurs.

The profile of the self-employed worker who actively uses online platforms work is diverse.

- Well-established artisans use platforms to sell their goods/services to new clients. The platform is used as a business portal and a distribution medium.
- Micro-entrepreneurs are a labour force for platforms. Between 2008 and 2013, the number of micro-entrepreneurs increased from 266,000 to 755,000. While not all micro-entrepreneurs use online platforms, it is reasonable to conclude that such growth is a consequence of the emergence of this new form of activity. This status is tailored to people who want to start a business and want to test out its sustainability, and to individuals who want to earn additional income.
- Highly qualified freelancers who work for specialised platforms, such as EverPhotoShoot, are usually self-employed. Their income far exceeds the maximum limit to be considered a micro-entrepreneur, and so, falls under the standard self-employed status. As a result, they are required to pay VAT, unlike micro-entrepreneurs.

Since President Macron’s election, public bodies in France have been promoting the status of micro-entrepreneur. This status is open to workers whose annual revenues fall below a revenue ceiling, which was doubled as of 1 January 2018.³⁸ This change can be interpreted as a way to promote the micro-entrepreneur status for platform workers.

³⁷ See above, ‘Regulatory framework’

³⁸ In 2017, €33,200 per year for services, €81,500 for goods. Since 1 January 2018, €70,000 per year for services, €170,000 for goods.

Relationships among the three parties involved

There are at least three contracts between the parties involved: one contract between the platform users, for example for parcel deliveries between the platform worker and the client; and two contracts between the platform and the users (one with the platform worker and one with the client). French contract law provides an adequate framework for all these contracts. Most legal issues raised by the contractual relationships involving platforms already fall under contract law. The contract between platform users is in no way specific. These contracts vary according to their object, which could be a service contract and governed by [article 1710 of the French Civil Code \(in French\)](#).

Depending on the parties involved, such as professionals and/or individuals, contractual relationships are regulated by business law and/or consumer law. The nature of the contract between users can sometimes be difficult to define, as it requires a refined analysis of the object of the contractual relationship and the obligations of the parties. The contract clauses can lead to ambiguity regarding the classification of the relationship, however, this is not an issue specific to platform contracts.

In order to resolve contractual disputes involving platforms, the IGAS report of 2016 proposed the introduction of mediation procedures between platforms and platform workers. When platform workers receive bad evaluations or are delisted by the platform, dispute procedures to resolve them were often contradictory (IGAS, 2016). It should be noted, however, that French business law already provides mechanisms to prevent abusive practices by platforms, notably against sudden and unilateral price reductions (see [article L.442-2 of the French Commercial Code \(in French\)](#)). [Article L442-6 of the French Commercial Code \(in French\)](#) prohibits various commercial practices such as to subject a trading partner to obligations that create a significant imbalance; to obtain, under threat of a brutal breakdown of commercial relations, unfair business conditions ; to abruptly terminate a commercial relationship without written notice.

The French contractual system has specific rules to take into account some of the specificities of platform activities. These rules set specific contractual obligations applicable to all platforms, as well as contractual limitations and contractual and regulatory duties applicable to platform users.

A **reinforced obligation of information** is applicable to all platforms, regardless of the field of activity. [Article L.111-5-1 of the French Consumer Code \(in French\)](#) stipulates that any person undertaking a platform activity must provide their identity information, such as postal address, email address and business registration number, to final users in a fair, clear and transparent way. This person must also comply with certain civil and fiscal obligations. Prices must also be clear and unambiguous. Where relevant, the inclusion of taxes and delivery costs must also be indicated.

Users' contractual limitations

In order to protect fair competition between traditional businesses and platforms, legal requirements have been established in the sector. These requirements do not relate to 'platform work', but they do restrict the contractual freedom of users. To protect the hotel industry for example, the rental period of primary residences should not exceed 120 days per year (see [French Law No. 2016-1321 of 7 October 2016 \(in French\)](#)). Fines can be issued to owners who fail to declare their activity or who exceed the maximum number of rental days.

The contractual and regulatory duties of platform workers

[French Law No. 2014-1104 of 1 October 2014 \(in French\)](#) (codified in [article L.3141-1 of the French Transport Code \(in French\)](#)) aims to reshape passenger transport activities by setting out special rules, notably for platform workers who fall under the category of 'transport vehicles with a driver' (*Véhicule de Transport avec Chauffeur, VTC*) (IGS, 2015). Such drivers are platform workers who entered the French labour market with Uber. In the beginning, platform workers in the passenger transport sector were subject to no regulations, apart from the requirement to have a valid driving licence. Their activities are now more strictly regulated.

- Unlike taxi drivers, VTC platform workers can only take clients who have made a reservation. They are not permitted to pick up passengers who hail a taxi.
- VTC platform workers are not permitted to park around airports or train stations after driving to pick up/drop off a passenger.
- VTC platform workers must display a distinctive sign/symbol on their cars, differentiating them from standard taxis.
- Whereas taxi drivers must take examinations to perform their occupation, VTC platform workers must have accumulated 250 training hours in order to be accredited. However, this obligation was abolished in January 2016 and has been replaced by a five-hour update training session every five years.
- Whereas taxi drivers must purchase a licence from another driver, which depending on market prices can be anywhere up to €200,000 every five years, VTC platform workers must pay a registration fee of approximately €170.

Box 6. Can VTC platform workers use the motorway taxi lane to Charles de Gaulle Airport?

An administrative decision issued by the Parisian authorities on 29 February 2016 determined that only taxi drivers and buses could use the lanes reserved to them. This was disputed by VTC platforms and was brought before the Montreuil Administrative Court. The Court ruled on 17 October 2017 that the administrative decision did create inequality between taxis and VTCs did affect the freedom to conduct business.

The purpose of [French Law No. 2016-1920 of 29 December 2016 \(in French\)](#) was to complement [French Law No. 2014-1104 of 1 October 2014 \(in French\)](#). Its aim was to rebalance the relationships between platforms and platform workers who transport passengers. The right to carry passengers is now reserved to drivers who have the status of VTC if they do not hold a taxi driver's licence. Since 31 December 2017, drivers cannot transport passengers with just an ordinary driving licence. [Decree 2017-483 of 6 April 2017 \(in French\)](#) organises a professional test and other conditions for drivers to obtain a VTC licence. As a result, drivers who are not successful in obtaining a VTC licence may not be called upon by their employer. In this sector, many drivers have an employment contract. Approximately 15,000 workers could potentially lose their jobs. Platforms have a duty to communicate all data necessary to verify compliance with these regulations to the administrative authorities.

Other contractual relationships

Legal adaptations to e-commerce

Other protective measures focus on contracts when parties are not physically present to sign them. In the context of platform work, these rules aim to protect the final user, when he/she is not a professional. [Article 1127-2 of the French Civil Code \(in French\)](#) states that after the placement of an order (or the first click), a user can still cancel their order at the summary step. The confirmation of an order is, therefore, only processed after the second click. If the contract cannot be performed, the user must be reimbursed within two weeks. The non-performing party is liable for the full execution of its obligations throughout the whole process ([see article 15 of French Law No. 2004-575 of 21 June 2004 \(in French\)](#)).

Discussion on formal relationships

The topic of a third status for semi-subordinated work is not new in French law. The line between employees and self-employed has become blurred in recent years, especially owing to the emergence of new forms of activities where workers are economically dependent on one client (Antonmattei and Scibarras, 2008). The creation of a specific status for economically dependent workers has been debated for many years. In relation to platform work, two key points can be made:

- There is no substantial evidence to demonstrate that platform workers are economically dependent. The main contract giver is not the platform itself, but rather clients. Cases where the platform generates most of the income of a platform worker are rather uncommon.
- French public bodies are already set against creating a specific status. The French Employment Guidance Council (*Conseil d'Orientation pour l'Emploi*) (2014) argued that such a status would have the negative effect of transferring jobs from the employment category to this new (less protective) category. Furthermore, a third status would not resolve the problem of borders between categories, leading to legal instability and a new wave of case law. In a report published in 2016, the IGAS stated that 'the situation of self-employed collaborative workers does not, to date, justify changing the conclusion (of the French Employment Guidance Council) in France, in particular because of their small number at this time and the significant complexity of understanding the economic dependence on digital platforms'. The IGAS report advised French public bodies to take a different path: providing new guarantees to self-employed platform workers to reduce the asymmetry of the relationships between platforms and platform workers (IGAS, 2016). This was integrated into [French Law No. 2016-1088 of 8 August 2016 \(in French\)](#).

Organisation and representation in platform work

Organisation of platform workers

The platform sector is not well organised in France. Platforms and workers mainly act as single players. This situation creates two types of difficulties: there is no effective social dialogue with workers and public authorities have not clearly identified discussion partners. Platform work also raises several issues as regards collective action rights. The geographic dispersion of employees and the lack of a commonly identified workplace undermine collective structures that coordinate collective actions. This geographic dispersion, combined with the fact that platform work is a new form of activity where workers occupy a weak position, challenges the emergence of collective initiatives among workers on joint demands or a unified strategy of action.

Two situations must be distinguished: whether platform workers are employed or self-employed. When they are employed, they can join any trade union, as any other employee. When they are not employed, the situation is trickier. They can become members of a trade union as long as the trade union statutes allow this form of membership. As already mentioned, they have the right to join a trade union or to form one. Some trade unions, namely the *Confédération française démocratique du travail (CFDT)* (French Democratic Confederation of Labour), already welcome self-employed persons and expressed its wish to extend memberships to self-employed platform workers. Trade union action on self-employed platform work is de facto limited. The collective agreements that may be signed³⁹ would indeed be subject to a major limitation: competition law would need to be respected by negotiators, particularly if the negotiation was about remuneration or working conditions.⁴⁰

There is also a specific problem for self-employed workers in general. Their existing representative organisations, such as the French National Union of Liberal Professions (*Union Nationale des Professions Libérales*, UNAPL) and the French Inter-Union Defence Confederation and National Union of the Self-Employed (*Confédération intersyndicale de défense et d'union nationale des travailleurs indépendants*, CID-UNATI) are, in fact, employer organisations. Although some structures have emerged to defend the interests of micro-entrepreneurs, such as the French Federation of Micro-Entrepreneurs (*Fédération des Auto-Entrepreneurs*, FEDAE), which also has some platform workers among their

³⁹ No known agreement has been signed yet.

⁴⁰ See CJEU 4 December 2014, FNV, case C-413/13.

members, their voices are not being heard. Self-employed platform workers can set up their own organisations, but contrary to representative trade unions, they cannot negotiate on behalf of all platform workers, and only represent their members.

Trade unions are gradually investing in the field of platform work. Some concrete initiatives are worth mentioning. In 2014, the *Union nationale des syndicats autonomes* (UNSA) created a specific section to defend the Uber drivers' interests. To overcome the distinction between employees and dependent self-employed persons, the *Confédération générale du travail* (CGT) (General Confederation of Labour), encourages the creation of local unions with the aim to defend platform workers' interests. The CGT focused its 2016 annual congress on the unionisation of self-employed platform workers. Worth noting is also the fact that in the south west region of Gironde (Bordeaux), the bike courier CGT union has been instituted.

The *Confédération française des travailleurs chrétiens* (CFTC) (French Confederation of Christian Workers), which is one of the five national intersectoral representative trade unions in France, focused its 2016 annual congress on the e-economy and argued in favour of a new unified worker's status.

The *Confédération française de l'encadrement - Confédération générale des cadres* (CFE-CGC) (French Confederation of Management – General Confederation of Executives), launched an internal reflection on the definition of concrete propositions to offer a decent legal framework to platform workers.⁴¹ On the contrary, it is noticeable that among employers' organisations, the *Mouvement des entreprises de France* (MEDEF) (the Movement of the Enterprises of France), which is by far the most important one, does not seem to consider platform activities as a topic of interest.⁴²

Besides these initiatives taken by typical trade unions, a limited number of specific organisations aiming to defend platform workers' interests have emerged. They are concentrated in the driving sector. The first one, called '[SCP-VTC](#)', was created on 15 October 2015. Its core purpose is to defend the collective interest of platform drivers whether they are self-employed or employees. One goal is to establish links of solidarity between all members. SCP-VTC fights against bogus self-employment in the platform drivers sector. A second union, the Union for Operators of People Transportation (*Syndicat des exploitants du transport de personnes*), was created on 9 November 2015. This trade union has been active in criminal court disputes involving Uber, claiming that the activity of this platform corresponds to undeclared (employed) work. Finally, the platform workers' community is also organised in an informal way via Facebook groups. An example is [la communauté solidaire de chauffeur indépendant VTC](#).

Organisation of platforms and social dialogue

Initiatives are taken by public authorities to stimulate a better organisation of the actors of the platform sector. Member of Parliament Pascal Terrasse's 2016 report to the Prime Minister (Terrasse, 2016) invited the actors of the platform sector to structure themselves in order to identify a system of representation before public authorities. Indeed, by mid-2018, platforms are not collectively organised. It is necessary, though, to underline the existence of an association created at the initiative of a business federation, *L'observatoire de l'Ubérisation*. The observatory gathers amongst others, self-employed workers, platforms, researchers, members of the parliament, former minister and experts in digital activities. The purpose of this association is to understand the 'Uberisation' phenomenon, to anticipate

⁴¹ Les plateformes de mise en relation par voie électronique - Rapport du groupe de travail sur le numérique de la CFE-CGC - 18 December 2017.

⁴² The MEDEF has not been involved in any of the official reports and did not respond to the invitation to be interviewed for this project.

changes and to make concrete proposals. Its [website](#) includes many pieces of information, documents and literature on platform work. All public reports include the observatory's point of view.

Social partners were closely associated with some actions initiated by public authorities. In particular, the key report of the IGAS that led to the 2016 law includes interviews of two trade union representatives at inter-sectoral level, one institution representing micro-entrepreneurs and two business organisations.

Concrete measures are under way. '*France Stratégie*', a public body under the authority of the French Prime Minister, instituted informal discussions between platforms, trade unions, experts and insurance companies (France Stratégie, 2017). These discussions were launched in December 2016. Working groups met during the first semester of 2017 around two topics: social dialogue and supplementary social security coverage for self-employed workers. Forty people were involved: 17 platform representatives; 14 trade union and other workers' organisations representatives; 7 experts; 2 representatives of the insurance sector.

Many obstacles for the establishment of an effective social dialogue were identified by the working groups:

- Platforms are reluctant to engage in social dialogue because of their fear of reclassification of the service contracts they conclude with platform workers into employment contracts.
- There is no clearly defined criterion of representativeness. Discussions take place between actors who mutually recognise themselves as stakeholders. The matter of representativeness is made more complex by the fact that the usual sectoral approach is not adequate for platform activities.
- Platforms show little interest in social dialogue for cultural reasons. They are usually young companies focusing on their economic model.
- Social dialogue is hampered by the varying power balance between platform workers and platforms. Situations vary widely according to the sector of activity concerned and the level of qualification of the workers.

Concrete proposals to stimulate collective negotiation were made:

- to create the right for self-employed workers' representatives and platforms to negotiate platform workers' fees and working conditions;
- to require platforms to organise an annual consultation of their platform workers on remuneration and working conditions (IGAS, 2016).

Public authorities announced the creation of an observatory on platforms (France Stratégie, 2017). This body would serve parties who mutually recognise themselves as stakeholders. Social partners are included. The observatory will:

- collect and share data and information on employment and working conditions;
- encourage initiatives in the field of social dialogue (creation of working groups between platforms and platform workers, forums and discussions groups).

The activity of the observatory will have to be coordinated with actions undertaken at sectoral level.

During discussions, public authorities tried to encourage social partners to reflect on a system of voluntary additional social security coverage.⁴³ They consider that the set-up of a social coverage fitted to the nature of platform activity is a key objective. Actors seem to be reluctant. On the employee side, the diversity of needs between platform workers is an obstacle for the identification of joint demands. For instance, the needs of a full-time taxi driver and a part-time platform worker for whom this is a side

⁴³ About the insufficiency of the social security coverage of platform workers, see earlier under Regulatory framework – discussion on new or updated regulatory frameworks.

activity are very different. On the platforms' side, strategies are heterogeneous. Some platforms already have a system in place (see Uber for healthcare) whereas most of them do not provide additional social protection. Platforms share a common fear: their participation in a supplementary coverage could be one element in favour of their assimilation to the employer status. All in all, discussions dealt with technical questions such as which institution should be in charge of determining the level of supplementary coverage; whether rights should be portable and how the scheme should be funded or managed.

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Regulations specific to platforms and platform workers

Article 60 of Law 2016-1088 of 8 August 2016

Article 242 bis of the Tax Code ('Code Général des Impôts') inserted by Law 2015-1785 of 29 December 2015

Article L114-19-1 of the Social Security Code inserted by Law 2015-1785 of 29 December 2015

Decree 2017-774 of 4 May 2017 on social responsibility of electronic contact platforms ('relatif à la responsabilité sociale des plateformes de mise en relation par voie électronique') inserted in Art. D. 7342-1 and subs. of the labour code, Labour code

Interministerial Circular DGT/RT1/DGEFP/SDPFC/DSS/2C/2017/256 of 8 June 2017 on social responsibility of electronic contact platforms ('relatif à la responsabilité sociale des plateformes de mise en relation par voie électronique')

Annex: Platforms mentioned in text

Platform	Platform work type
Amazon Mechanical Turk	Online moderately skilled click-work
Deliveroo	On-location platform-determined routine work
Etsy	Other*
EverPhotoShoot	On-location client-determined higher-skilled work
Frizbiz	On-location client-determined moderately skilled work
Hopwork (now Malt)	Online client-determined specialist work
Le Cab	On-location platform-determined routine work
Stuart	On-location platform-determined routine work
Uber	On-location platform-determined routine work

* Etsy is a marketplaces allowing the sale of physical or digital objects

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