

The German platform economy: Strict regulations but unfair standards?

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ABSTRACT

In the German public debate, platform work and crowdwork have become the epitome of the dark side of the digital transformation of the working world. Although Germany is marked by a high density of labour regulations, those do not necessarily translate into/create fair conditions for platform workers in the country. At first glance, the historical legacy of strong social partnership between employers' and workers' organisations and the restrictiveness of German labour law mean Germany present powerful regulatory tools to thwart precarity and strengthen workers' rights in the platform economy. However, the spread of non-standard employment and sub-contracting, in combination with increased migration from within and beyond the EU, has given rise to a rather different picture. Assisted by public demands for far-reaching deregulations to secure Germany's international competitiveness as production site, several digital labour platforms have found an environment conducive to growth in Germany. Platform work in Germany is often lauded for its flexibility and low entry barriers, as it provides an easy opportunity to earn an income and can help labour market integration for those who face barriers to standard employment. Nevertheless, important issues are present. The paper aims to shed light on the working conditions of platform workers in Germany. The analysis is founded upon the five core principles of Fairwork. Drawing from documentary analysis, 65 semi-structured interviews with platform workers and 8 interviews with platform managers, the paper finds that the country's relatively stringent labour regulations do not always translate into fair working conditions for platform workers. Although, compared to other countries, many platforms workers in Germany are legally classified as employees, sub-contracting practices, the use of unskilled migrant labour and other platforms' practices undermine many employment rights in practice.

1. Introduction: social partnership, labour law and the platform economy

Digital labour platforms have found themselves in a growth-friendly environment in Germany. Numerous multinational platform companies have been founded in Berlin, including Helpling, Delivery Hero and Betreut.de. Among European cities, Berlin has received the second-largest volume of venture capital investments (Business Location [Center](#), 2020). Germany also has a very high level of Internet use: In 2019, almost three quarters of the population used a smartphone and almost 90% of the population used the Internet regularly ([Statista](#), 2019). Although there is no comprehensive data on the exact number of platform workers in Germany, recent estimates range from 500,000 to 1.6 million workers depending on the method of counting. The majority of them work in the sectors of household-related services (e.g. cleaning

services, pet sitting, care work), logistics (e.g. delivery and courier services) and mobility (e.g. driving services) ([BMAS](#), 2018; [Pesole et al.](#), 2018).

The German labour market is characterised by a long tradition of tripartite social partnership. This model of labour market regulation consists of close cooperation between the three competing pillars: strong trade unions representing a relatively socio-economically homogeneous workforce, financially strong employers' associations and the government. Moreover, practices of codetermination have frequently brought about important ways for workers to actively influence decisions at their workplaces, through institutional arrangements such as works councils ([McGaughey](#), 2016). Hitherto, it has been argued that Germany's historic legacy of tripartite social partnership between employers' organisations, workers' organisations and the government, as well as its strict labour regulations, provide a framework of strong institutional scrutiny

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and balance against the uncertainty and precarity caused by digital labour platforms (Thelen, 2018). In fact, being an employee in Germany automatically entitles a worker to a number of employment rights, including: minimum wage legislation and, where present, sectorally agreed salary scales, health and safety protections, maternity pay, sick pay, working time legislation, holidays, protection against unfair dismissal, collective representation rights. In contrast to many other countries covered in this special issue, in Germany, workers on a number of platforms (6/10) are classified as employees rather than as independent contractors, notably those working for the food-delivery quasi-monopolist Lieferando (Handke, 2020).

Against this backdrop, could Germany serve as a vanguard for other countries when it comes to taming the worst excesses of platform capitalism? Our findings indicate that Germany’s relatively stringent labour regulations provide a number of basic protections for workers, but these do not always translate into fairer working conditions in the platform economy. This discrepancy is perhaps not surprising, given that in recent years, the German labour market has increasingly relied on low-wage, casual and migrant labour; partly undermining the country’s historically strong labour regulations framework. Therefore, we argue that in a highly regulated labour market context, platforms find loopholes to exacerbate the precarity of workers, even in cases where they are provided with employment status. In particular, these loopholes include sub-contracting and the prevention of freedom of association.

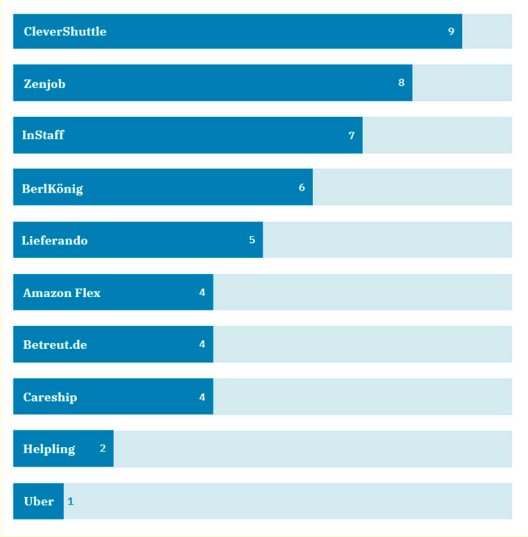
The paper aims to shed light on the working conditions of platform workers in Germany. The analysis is founded upon the five core principles of Fairwork, developed by academics at the University of Oxford, through discussions had with a number of global stakeholders at the International Labour Organisation (Graham et al., 2020). The paper draws from document analysis, 65 semi-structured interviews with platform workers in 10 platforms and 8 interviews with platform managers, finding that the country’s relatively stringent labour regulations do not always translate into fair working conditions for platform workers. Although, many platforms workers in Germany are legally classified as employees and should therefore be entitled to a range of employment rights and protections granted by German law, sub-contracting practices, the use of unskilled migrant labour and other platforms’ practices undermine de facto many of these rights, leaving workers experiencing unfair work practices and precarity.

The paper proceeds as follows. First, it provides an overview of the methodological approach, using the Fairwork principles. Subsequently, the discussion is structured around the five Fairwork principles: fair pay, fair conditions, fair contracts, fair management, and fair representation. Finally, the paper extrapolates those findings into what it theorises as Germany’s Platform Economy Paradox.

2. Methodology: the fairwork approach

The Fairwork project evaluates the working conditions of digital platforms and ranks them according to fairness. Our goal is to show that better, and fairer, jobs are possible in the platform economy. To do this, we use five principles that digital platforms should comply with in order to be considered to provide ‘fair work’. These five principles are fair payment, fair working conditions, fair contracts, fair management and fair representation. Each of the five Fairwork principles is broken down into two points: a basic point and a more advanced point that can only be awarded if the basic point has been met. In total, platforms can reach up to 10 points if they present reliable evidence to prove the principle’s fulfillment. We evaluate platforms against these principles to show not only what platform work is, but also what it should be. If a point is not met, it means that there was no evidence to show compliance with the relevant principle. Platform were selected from different industries, i.e. deliveries of food/groceries, household-related services (caring, cleaning, dog walking etc.) and transport of people, and chosen as the best-known and most relevant platforms in the area (Table 1). The findings presented in this paper are the result of a one-year pilot project in

Table 1
Germany Fairwork scores for 2020.



Germany on 10 different platforms in a range of sectors: ride-hailing (Clevershuttle, Uber, BerlKönig), courier (Amazon Flex), food delivery (Lieferando), domestic services (Helpling), care services (Betreut.de, Careship), catering and events (InStaff), miscellaneous (ZenJob). To our knowledge, these include all the most important platforms operating in each sector in Germany at the time of the study.

The Fairwork project uses three approaches to effectively measure fairness at work. The process starts with desk research to ascertain which platforms are operating in each city, as well as noting the largest market share. In Germany, we focused on platforms operating in Berlin, the largest city. Desk research focuses on any publicly available information (both online and offline) about platforms and platforms’ working policies and conditions. It includes platforms’ websites, terms and conditions (where publicly available), newspaper and magazine articles, court cases in which a platform was involved, speeches and declarations by platform managers, platforms’ social media channels. It provides the overall range of the platforms that are included in the study, as well as identifying points of contact or ways to access workers. Desk research also flags up any public information that could be used to score particular platforms (for instance the provision of specific services to workers, the existence of specific policies, or ongoing disputes).

The second method involves interviewing platform workers directly. We aim for a sample of 6–10 workers interviews at each platform. Workers have been approached either through the platform directly or at known worker meeting points in Berlin. These interviews do not aim to build a representative sample. They instead seek to understand the processes of work and the ways it is carried out and managed. Based on the desk research and the worker interviews, a preliminary score is assigned to each platform and presented to platform managers, asking for evidence to award additional points. These conversations provide valuable insights into the operation and business model of the platforms, while also opening up a dialogue through which platforms could agree to implement changes based on the principles. This threefold approach provides a way to cross-check the claims made by platforms, while also providing the opportunity to collect both positive and negative evidence from multiple sources.

Each of the five Fairwork principles is broken down into two points: a basic point and a more advanced point that can only be awarded if the basic point has been fulfilled. Every platform receives a score out of 10. Platforms are only given a point when they can satisfactorily demonstrate their implementation of the principles. Failing to achieve a point

does not necessarily mean that a platform does not comply with the principle in question. It simply means that we are not—for whatever reason—able to evidence its compliance. In the following sections, we use the principles to structure our results.

3. Discussion: strict regulations and unfair standards

3.1. Pay

Out of 10 studied platforms, all but one - Uber - were able to evidence that workers are paid at least the minimum wage (which in Germany was set at €9.35 per hour in 2020). Aside from domestic and care work platforms (Helping, Betreut.de, Careship) and courier platform Amazon Flex, the majority of platforms (6/10) included in our analysis, hired workers through an employment contract, rather than on a self-employment basis, and they are thus paid an hourly or monthly wage. Of those paying at least the minimum wage, the majority were also able to show that workers earn the equivalent of the minimum wage *after* work-related costs are taken into account. In the case of employees, such work-related costs are automatically taken into account by their employer.

The fact that not all platforms were able to demonstrate evidence for payment above the minimum wage may come as a surprise. However, given the wider inequalities and loopholes companies make use of, the country's general labour market statistics provide essential context. In 2018, more than half of the working population were in employment relationships that were subject to social insurance contributions, with an unemployment rate of a little over 5 %. Despite this, low unemployment rate there is a high proportion of low wage earners, at 22.5% (defined as earning two-thirds or less of their national median gross hourly earnings), which is well above the European average (17.2%) (European Commission, 2021). At the same time, workers on temporary contract constitute 12.6% of the workforce, slightly below the European average (14.1%), but higher than comparable countries in Central and Northern Europe (Eurostat, 2018). In short, the German labour market is increasingly characterised by a relatively high proportion of low-wage and temporary employment.

Lech's¹ experience illustrates these macro-scale dynamics. Lech is one of the workers that we interviewed as part of our fieldwork in Berlin. He completed a university degree in graphic design in his home country in Eastern Europe, and worked as a designer for several years before moving to Berlin. Upon arrival, he signed up with Uber. In Germany, as in Nordic countries (Oppegaard, 2020), Uber had to change its business model, by commissioning private transportation intermediaries which provide workers with employment status (Kozłowska, 2019), rather than relying on a workforce of independent contractor "driver-partners" (as Uber usually classifies its drivers). When we interviewed Lech, he had been working for four months on the platform, but not exactly for the platform. He receives his payslips, as well as the car he uses to work, from an intermediary company, which leases cars to many others like him. Though he worked around 40 h per week, his income fluctuates significantly. In the month we met him, he made just over half of what he had made in the previous month. He does not have any contact with other drivers using the same platform or other employees of the intermediary firm, so he does not know whether his experience is similar to other drivers or not. Even though Lech is legally in a position to receive the minimum wage, he reports that this is not always the case. This shows how, despite the driver being an employee he is not always paid the minimum wage, as the use of piece-rate pay by Uber in connection with subcontractor's murky role in paying workers makes payment opaque, and makes it difficult for workers to understand who to blame. A counter example is provided by Patrick, who is a direct employee at ride-hailing platform BerlKönig: 'I don't have that time pressure that my

friends who work for Uber have. They are dependent on the number of rides, but I get a fixed salary'. This of course, also has an impact on the overall income, as Tobias, also a BerlKönig employee, describes: 'If you want to earn the same amount with Uber, you need to drive 10 h instead of 8.'

Regulatory issues in relation to subcontracting are not confined to the platform economy. In the past few decades, the proliferation of such exploitative outsourcing practices has put regulatory checks and balances to a test and exposed a grim reality for many workers. Critical investigations of essential sectors like the meat industry (Wagner & Hassel, 2016), construction work (Kahmann, 2006), and domestic work (Lutz & Palenga-Möllnbeck, 2010) suggest that the regulatory environment does not by any means guarantee the provision of minimum labour standards, such as the right to a minimum wage in all work relationships. Through sub-contracting practices, firms are able to circumvent traditional employer obligations, making it more difficult for workers to claim their rights. Research shows that workers with a migration background are in a particularly vulnerable situation (Ratzmann, 2020). Thus, digital platform companies have not spawned novel or disruptive developments regarding the importance of labour standards. Our methodological focus on working conditions in the platform economy brings to the fore familiar questions that relate to the struggle for decent working conditions for all workers in Germany, regardless of their employment status or origin.

3.2. Conditions

The fact that the many platform workers in Germany are classified as employees appears to guarantee higher standards in working conditions, as the law and national collective agreements entitle them to a whole range of rights and protections. Out of the ten platforms in our sample, seven (Clevershuttle, ZenJob, InStaff, BerlKönig, Lieferando, Amazon Flex, Careship) could be evidenced to protect workers against risks arising in the processes of work. Perhaps, unsurprisingly, all but two (Amazon Flex and Careship) use employment contracts. As employees, workers are entitled to full health and safety protection and platforms' clients have to agree to protect workers' health and safety in accordance with German regulations. As Martin, who previously worked in several odd student jobs and who is now has a regular employment contract with InStaff, exclaims: 'It is remarkable how fair the work at InStaff is'.

Nevertheless, our study also reveals how employment classification might not necessarily guarantee fairer working conditions. In one case, Uber, the platform uses a very complex and articulated network of sub-contracting arrangements, meaning that the vast majority of drivers are not directly employed by Uber but rather by a sub-contracting company. The opacity and lack of transparency in the way sub-contracting operates in the German context, means Uber could not evidence that health and safety standards were respected across these different arrangements. Similar to what emerged in the recent scandal in the meat industry and in other low-paid sectors (Kahmann, 2006; Lutz & Palenga-Möllnbeck, 2010; Wagner & Hassel, 2016), the lack of rules guaranteeing transparency and establishing clear employment responsibilities across the supply-chain, means that platforms in Germany can operate in a legal 'grey' area and may be able to avoid employment obligations by relying on sophisticated and opaque sub-contracting networks.

Two platforms which classify workers as self-employed could not evidence the fulfillment of health and safety standards. Self-employed workers are not protected by health and safety regulations and the platforms had not implemented additional precautions, such as checking on platforms' clients. Nor could they show that they provide any health and safety information to workers. In these cases, risks are disproportionately borne by workers, who have to work for clients for whom they do not have any background information.

Despite the employment status of platform workers in Germany protecting many of them from specific risks associated with their work, it does not go further than that, as only one platform has been found to

¹ This is a pseudonym. Lech's name has been changed to protect his identity.

promote health and safety improvements which go beyond task-specific risks. Only Clevershuttle, a ride-hailing company owned by Deutsche Bahn (the national railway company), could show it had introduced an additional measure to ameliorate the working conditions of its drivers, such as providing ergonomic seats, going beyond what is prescribed by the law. As Ahmed, a Clevershuttle driver, remarks: “Every job has physical and psychological implications for us. If the seat is not comfortable and my back hurts after 8 hours of driving, then that’s not fair work.”

This shows that much more needs to be done in ensuring fair working conditions among platform workers and that classifying workers as employees rather than independent contractors is not a panacea in improving labour standards in the platform economy.

3.3. Contracts

The fact that a number of platform workers in Germany are classified as employees means they can rely on an employment contract rather than simply on terms and conditions established by the platform. This allows workers to be better protected as employment contracts are tightly regulated by German labour law and establish strict employment obligations and rights for both workers and employers. In our sample, we found all contracts to be written in plain language and to be available to all workers. Even in the cases where workers are self-employed, the terms and conditions are written in a transparent language and are provided in accessible form. Nevertheless, the fact that a large number of platform workers in Germany are migrants and might not be fluent in German or might not speak German at all, means that even clearly written contracts might not be understood by workers, who might therefore find it difficult to exercise their rights. Mohammad, a food-delivery rider from the Middle-East, explains: ‘I guess I never met a German working [in food delivery], they are all Chilean, Indian or Pakistani.’ Hence, a number of platforms offer their contract or terms and conditions in both German and English, although they are not required to do so. This is undoubtedly an important step towards making written contractual arrangements more accessible, however it assumes that migrants are fluent in English, which is not always the case, as many workers have a Middle-Eastern or Latin American background. For contracts and terms and conditions to be really accessible to a large share of the platform workforce, they should be provided in the major languages migrant workers speak, including Turkish, Arabic and Spanish.

Overall, the fact that a number of platform workers in Germany are classified as employees means that issues of misclassification and of bogus self-employment are less relevant compared to most other countries (see, for instance, other articles in this Special Issue). Nevertheless, the issue of misclassification has been brought to the attention of German labour lawyers and policy-makers alike, with a number of cases involving the employment status of platform workers being brought to court ([Munich Regional Labour Court, 2019](#)). Policy-makers are also discussing possibilities of amending existing labour laws to take into account these new forms of employment, although any attempt at reform has hitherto failed ([Henßler, 2016](#)). It is still unclear whether in the foreseeable future we will see successful legislative reform in this regard, nor whether platform workers, who are currently classified by platforms as self-employed will be instead regarded as employees by the law.

Moreover, the existence of an employment contract does not necessarily mean workers have a clear idea of whom their employer is or where employment responsibilities lie. In our interviews with Uber drivers in Berlin, many were unaware that they were not directly working for Uber but rather for one of its sub-contracting companies. As Zayed, an Uber driver, states: ‘I don’t know the name of the sub-contracting firm. I only know Uber gets 50 per cent and the [sub-contracting] firm gets 50 per cent [of the fee]’. Or Funda, one of the few female Uber drivers we encountered: ‘I don’t know the name of her

subcontractor, something with VIP?!’. Once again, the fact that German legislation allows for the existence of complex networks of sub-contracting with few checks and balances, allows some platform companies to avoid direct employment obligations, making it more difficult for workers to claim their employment rights and to hold platforms accountable for their employer’s responsibilities.

3.4. Management

In order to ensure fairness, digital platforms must have a documented due process for decisions affecting workers. In the German sample, five out of the ten platforms (Clevershuttle, Zenjob, InStaff, BerlKönig and Lieferando) could convincingly show that their workers are able to appeal decisions affecting them such as disciplinary actions (e.g. suspensions) and deactivations. All these platforms employ their workers. Businesses which intend to discipline an employee for violating a rule or policy usually need to follow a distinct procedure established by the company in accordance with the existing law. This procedure includes the notification of the proposed action and its grounds as well as the opportunity to present reasons and evidence why the proposed action should not be taken. In case of a dismissal, a works council may even lodge an objection to an ordinary termination announced by the employer according to Section 102 III of the German Work Constitution Act (*Betriebsverfassungsgesetz*).

Yet, half of the investigated platforms could not evidence a documented process to ensure predictability, transparency and fairness regarding decisions affecting workers. All of these platforms either use a self-employment model (Amazon Flex, Helping, Betreut.de, Careship) or a sub-contracting model (Uber). In both cases, workers have been found not to have access to a due process nor transparency in decisions affecting workers. Ulrike, who works as a carer for a care platform, remarks: ‘They can disable your account [...] If you call, they give you the feeling you are a slave or something, and they are not able to answer your questions.’ The lack of a due process also means that, in many cases, the platform only listens to the customer and not the worker. As Maria, who is a cleaner for Helping, explains: ‘[Helping] prioritises customers, they do not listen to you [...] Your account can be disabled [right away]’. Even in those platforms that offer due process in accordance with German legislation, many migrant workers found it difficult to claim their rights due to lack of awareness of regulation and to language barriers that prevent the workers to exercise their rights.

An equally sensitive issue relates to the proceedings of platform algorithms. As many of the processes and decisions on digital platforms are based and operated by (machine learning) algorithms, the use of the latter has to be made transparent in order to measure and mitigate potential social biases against workers. Yet, in the same five platforms, workers reported a lack of clarity in algorithmic operations and raised concerns about algorithmic fairness.

Besides due processes for decisions affecting workers, digital platforms are also called to prevent discrimination and promote equity in the way workers are managed on a platform (for example, in the hiring, disciplining, or firing of workers) and treated by customers and clients. Discrimination can be rife in the platform economy, and platforms often do not provide any tool to protect their workers. Once again, the situation is particularly problematic for many migrant workers, who are often the most vulnerable to discrimination. As Amin, a migrant driver at Clevershuttle, complains: ‘Sometimes you can get cancellations of rides because you look Muslim. I think family names and photos should not be shown to passengers.’ Discrimination can be even more common in domestic and care platforms, where the worker has to often work at the client’s home. As Zafer, a Helping worker from Pakistan, declares: ‘There’s a lot of discrimination from customers against Pakistani people’.

Among the ten investigated platforms in Germany, only one, InStaff, was shown to have an appropriate policy in place. InStaff incorporated guidelines against discrimination and harassment provided by the

competent federal and regional equality bodies of Germany and Berlin into the “workers rights” section of their website, as a result of the engagement with Fairwork. In this context it is worth noting that both the State Office for Equal Treatment Against Discrimination of the Berlin Senate for Justice, Consumer Protection and Anti-Discrimination as well as the Federal Anti-Discrimination Agency, on request, confirmed that no regulations exist to combat anti-discrimination and promote equality in the digital economy at the time of the research. This is a situation that is all the more serious as many platform workers in Germany are migrants, women or both (intersectional discrimination). Besides potentially discriminatory algorithms, female platform workers in Germany are at greater risk of falling victim to sexual harassment and physical assault, lower payments and lack of security (Hensel, 2020). As our study shows, being an employee does not necessarily protect workers against discrimination, with only one platform having taken steps towards more inclusivity and having implemented policies against discrimination.

3.5. Representation

A key challenge in the platform economy is that workers are often isolated, atomised, and placed in competition with one another. The platform work model presents challenges for workers to connect and create networks of solidarity. But many of the workers we have interviewed are either already starting to organise or have said they would want to join a labour union if one existed. In that respect, the use of social media has proven fundamental to foster organising activities. For instance, Robert, a Lieferando rider, who is part of a workers’ union, explains: ‘Due to data protection, Lieferando has deactivated the existing telegram group for riders, and did not replace it with anything new. But there is an [informal] drivers Whatsapp group. I use it to tell people about the workers’ association, to integrate new riders, trade shifts, help to find repair, issues with contract etc’.

In order to contribute to regulating working conditions and pay, platform workers need to be entitled to collective bargaining rights. The practice of codetermination which has historically characterised German industrial relations, gives an important role to works councils in the representation of workers. According to the Work Constitution Act (Betriebsverfassungsgesetz), a works council can be elected in companies in which five eligible employees are employed; three of these employees are eligible for election. Eligible employees are entitled to vote if they have been employed by the company for six months or more. This includes home workers if they have mainly worked for the company. The extent to which the tasks of the works council are laid down in law varies greatly from country to country. In the German context, the works council is a body for co-determination and representation of employee interests, which also participates in operational decisions. The legal definition of an ‘employee’ constitutes a problem for the establishment of works councils at digital platforms where workers are engaged in an atypical and platform-mediated working context. As noted above, several digital labour platforms do not classify their workers as employees, depriving them of related protections.

However, as the Fairwork study shows, only two out of ten of the digital platforms included in our sample, ZenJob and Clevershuttle, have made serious efforts to include worker voice mechanisms. The same two platforms are the only ones in the sample recognising a collective body that can undertake collective representation and bargaining. Besides a documented process through which workers’ collective voice can be heard, workers at Clevershuttle are also in the process of establishing a works council in Berlin which means that CleverShuttle drivers were able to exert their right of codetermination, and potentially influence management decisions. When, in summer 2020, its parent company German railways needed to restructure in the course of the pandemic, Clevershuttle shut down its operations in Berlin, Munich and Dresden due to large losses (RBB, 2020). As a result, a Berlin-based works council could not be established. Thanks to engagement with

Fairwork, ZenJob, a temporary recruitment platform focusing on students, included a clause incentivising collective bargaining in their General Agreement, which each of their “talents”, i.e. students working on the platform, has to sign before starting to work. Both companies hence convincingly showed themselves to be prepared to cooperate and negotiate with their workers. What is all-around alarming though is the fact that the other eight digital platforms chosen did not seem willing to do this. In fact, principle 5 was the one for which the average score was the lowest.

That shows that, the strong social partnership tradition present in Germany should, at least in principle, provide important collective representation rights to those classified as employees, this is far from the case in practice. Even though six out of ten of the platforms in our sample classify their workers as employees, for the majority of them, the fair representation principle is not met. This appears to be due to the structural conditions characterising platform work, where workers often work in isolation and are often unable to meet with other workers (Woodcock & Graham, 2019). In that respect we found, in line with other authors (see, for instance, Bertolini and Bertolini & Dukes, 2021), that social media prove to be a fundamental tool for workers who might not meet in person, to be able to organise and mobilise.

4. Discussion Germany’s platform economy paradox

Although the majority of platforms operating in Germany provide employment contracts which, by law, entitle workers to many employment rights and protections, the legal framework also presents a number of loopholes that have allowed platforms as well as more traditional companies to circumvent some of the employer’s obligations, and to dilute employment rights, including through the use of independent service contracts and sub-contracting arrangements. Our study clearly points to the fact that having an employment contract is, in many instances, conducive to fairer working conditions. All the top scoring platforms in our sample do provide employment contracts. Being in an employment seem to provide better rights and protections especially in the case of health and safety conditions, clear and transparent contracts and due process.

But, at the same time, it also shows that being an employee is not necessarily guarantee of more rights and protections. The lowest scoring platform in our sample, Uber, does provide employment contracts, but it uses a vast number of subcontractors whose opaque working conditions make it very difficult to ensure that most fair standards of work are respected. At the same time, we could show that being an employee is not necessarily a guarantee of protection against discrimination or of collective representation in the majority of platforms. As regards representation, the German social partnership tradition and codetermination practice is shown not to translate into adequate collective representation and bargaining rights for platform workers in most cases.

Fair work practices appear to be complicated by the vast use of unskilled migrant workers. As already highlighted in the literature (van Doorn, 2017; van Doorn & Vijay, 2021), the use of migrant work allows platforms, as well as non-platform companies, to increase their control over the workforce while, at the same time, reducing its obligations towards workers with impunity. Migrants are less likely to know their rights and find it more difficult to navigate the legal environment in order to claim those rights. In our study, we showed how the use of German language-only contracts constitutes a relevant barrier for workers to understand what they are entitled to. Our study also shows that migrants are more likely to experience discrimination, with platforms in most cases, unable to provide adequate protection.

As a result of these ambivalent findings, we conclude that the country’s legal and policy environment, and its history of social partnership, dovetails with barriers as well as potential pathways to shape the trajectories of platform capitalism in ways that are beneficial to workers. This is not a trivial finding. In terms of barriers, we might imagine future scenarios in which platforms refine their exploitative

practices of opaque sub-contracting systems that appear to follow the law in principle, but undercut minimum standards in practice. In terms of worker-friendly trajectories, it is crucial that policymakers at the federal and regional levels take into account qualitative and quantitative evidence on the formation of such circumventions of labour standards and continue to hold platforms accountable.

Regulating the platform economy is clearly becoming a key priority for politicians and regulators. For example, the Federal Ministry of Transport and Digital Infrastructure (BMVI), the Federal Ministry for Work and Social Affairs (BMAS) and numerous parliamentary committees on the national and regional level are engaged in this process. As a cross-cutting phenomenon, platforms affect a number of policy domains. In August 2021, BMVI, for example, has implemented an amendment to the law of public transportation to establish permanent legal status for pooling offers from transport services such as Uber and Clevershuttle. Up until 2021, such transport services had operated on the basis of a so-called experimentation clause (Experimentierklausel). An essential point of controversy during this policy process had been the definition of mandatory statutory and occupational safety standards for employees of such mobility providers. In 2018, the BMAS founded a think tank dedicated to develop comprehensive regulatory approaches for platforms. In November 2020, the think tank released a list of proposals to ensure fair conditions for on digital platforms (BMAS, 2020). These proposals include but are not limited to the improvement of social safety nets, including pension and accident insurance, and improved possibilities for collective action by independent contractors. However, the current coalition agreement for the governing period 2021–2025 seems to signal a turn backwards, since it makes no mention of regulation and instead focuses on data collection and conversation.

These developments could have spill-over effects throughout the European Union, where the platform economy is expanding rapidly. Across the European Union, more than 28 million people now work through digital labour platforms (a number that is expected to reach 43 million by 2025), with 55% of people earning less than the net hourly minimum wage of the country they are working in (European Commission 2021). According to a recent study published by the European Commission, in 2018, 12% of employable people in Germany had done platform work at least once in the past (Urzi Brancati et al., 2020). Extrapolated to the labour force potential, this number corresponds to about 5.6 million people. This survey shows that almost 6 % of the working population (i.e., approximately 2.8 million workers) earn at least a quarter of their income from platform work. As the European Union moves towards the Fourth Industrial Revolution at full speed, it is crucial that policymakers safeguard important protections for all workers. It is still to be seen whether the recent proposal for a Platform Work Directive, which is currently being discussed by both the European Parliament and Council will have enough teeth to dent platforms' malpractices, and whether it will be able to improve labour standards for platform workers across the EU.

The range in Fairwork scores across German platforms is proof that very different work and platform business models are possible within the platform economy. Crucially, this heterogeneity points to pathways for effective regulation, and provides a basis from which collective bodies of workers can formulate their demands. Our hope is that workers, consumers, regulators and companies use the Fairwork framework and ratings to imagine, and realise, a fairer German platform economy.

5. Conclusion

This article has shown that Germany represents an interesting case study of how the burgeoning platform economy is embedded in, and shaped by, a relatively strong labour regulations framework. At first glance, the historical legacy of strong social partnership between employers' and workers' organisations and the very stringent employment regulations framework mean Germany present powerful policy tools to fight precarity, discrimination, and atomisation in the platform

economy. However, the spread of non-standard employment and sub-contracting, in combination with increased migration from within and beyond the EU, has shaped a different picture. Against this background, several digital labour platforms have found a fertile environment to grow. Platform work in Germany has been welcome for its flexibility and low entry barriers, as there is generally no need for specific occupational licences and it can often be performed with limited knowledge of the German language. Therefore, platform work can provide a fast route to earning income and is frequently a lifeline for those who face barriers to standard employment, including students, women and immigrants. Nevertheless, important issues are present. Through a pilot qualitative study on 10 platforms covering the most important sectors of the German platform economy, we have shown how many fair standards of work are not met, and that the German stringent labour laws and strong tradition of social partnership often fail to provide workers with adequate rights and protections. Although a number of regulatory attempts have been tried at both the national and European level, these appear to be far from sufficient in guaranteeing a future of fairness in the German platform economy. We therefore call both policymakers and social partners to strengthen their efforts in ensuring that minimum labour standards are met for *all* platform workers, regardless of employment status, platform, sector, and migrant background.

CRedit authorship contribution statement

Fabian Ferrari: Writing – review & editing. **Alessio Bertolini:** Writing – review & editing. **Maren Borkert:** Writing – review & editing. **Mark Graham:** Writing – review & editing.

Declaration of competing interest

No conflict of interest.

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References

- Berlin Business Location Center. (2020, April). Venture Capital und Inkubatoren. <https://www.businesslocationcenter.de/startups-berlin/venture-capital-inkubatoren/>.
- Bertolini, A., & Dukes, R. (2021). Trade unions and platform workers in the UK: Worker representation in the shadow of the law. *Industrial Law Journal*, 50, 662.
- BMAS. (2018, October). *Ausmaß von Plattformarbeit in Deutschland könnte höher als bisher angenommen sein*. BMAS. <https://www.bmas.de/DE/Presse/Meldungen/2018/ausmass-von-plattformarbeit-in-deutschland-hoeher-als-erwartet.html>.
- BMAS. (2020). Make new work fair. November 27 <https://www.bmas.de/DE/Presse/Pressemitteilungen/2020/eckpunkte-plattformoekonomie.html>.
- van Doorn, N. (2017). Platform labor: On the gendered and racialized exploitation of low-income service work in the 'on-demand' economy. *Information, Communication & Society*, 20(6), 898–914.
- van Doorn, N., & Vijay, D. (2021). Gig work as migrant work: The platformization of migration infrastructure. *EPA: Economy and Space*, 1–21.
- Eurostat. (2018). *Part-time employment and temporary contracts - annual data*. Eurostat Website. Available at: https://ec.europa.eu/eurostat/databrowser/view/lfsi_pt_a/default/table?lang=en.
- European Commission. (2021, December 9). Questions and answers: Improving working conditions in platform work. https://ec.europa.eu/commission/presscorner/detail/en/qanda_21_6606.
- Graham, M., Woodcock, J., Heeks, R., Mungai, P., Van Belle, J. P., du Toit, D., ... Silberman, S. M. (2020). The Fairwork foundation: Strategies for improving platform work in a global context. *Geoforum*, 112(2).
- Handke, K. (2020). So will der Chef des finnischen Lieferdienstes Wolt in Deutschland angreifen – und das Monopol von Lieferando stürzen. *Business Insider*, 27(08), 2020. <https://www.businessinsider.de/wirtschaft/handel/so-will-der-chef-des-finnischen-lieferdienstes-wolt-in-deutschland-angreifen-und-das-monopol-von-lieferando-stuerzen/>.
- Hensel, I. (2020). Genderaspekte von Plattformarbeit: Stand in Forschung und Literatur Expertise für den Dritten Gleichstellungsbericht der Bundesregierung. [http://Expertise-Genderaspekte-Plattformarbeit-2020\(1\).pdf](http://Expertise-Genderaspekte-Plattformarbeit-2020(1).pdf).

- Henssler, Martin (2016). Überregulierung statt Rechtssicherheit. Der Referentenentwurf des BMAS zur Reglementierung von Leiharbeit und Werkverträgen. *Recht der Arbeit. RdA, (1)*., 18–24.
- Kahmann, M. (2006). The posting of workers in the German construction industry: Responses and problems of trade union action. *Transfer: European Review of Labour and Research, 12*(2), 183–196. <https://doi.org/10.1177/102425890601200206>
- Kozłowska, H. (2019). A web of 'partner' companies keeps Uber out of trouble in Poland. *OneZero, 17*(10), 2019. Available at: <https://onezero.medium.com/a-web-of-partner-companies-keeps-uber-out-of-trouble-in-poland-ee8a82ffcd2>.
- Lutz, H., & Palenga-Möllenberg, E. (2010). Care work migration in Germany: Semi-compliance and complicity 1. *Social Policy & Society, 9*(3), 419–430. <https://doi.org/10.1017/S1474746410000138>
- McGaughey, E. (2016). The codetermination bargains: The history of German corporate and labour law. *Columbia Journal of European Law, 23*(1), 135–176.
- Munich Regional Labour Court. (2019). *4 Dec 2019–8 Sa 146/19*.
- Oppegaard, S. M. N. (2020). Regulating flexibility: Uber's platform as a technological work arrangement. *Nordic Journal of Working Life Studies*. <https://doi.org/10.18291/njwls.122197>
- Pesole, A., Urzì Brancati, M. C., Fernández-Macías, E., Biagi, F., González Vázquez, I., & European Commission, & Joint Research Centre. (2018). *Platform workers in Europe (EUR 29275 EN)*. Publications Office of the European Union. <https://publications.jr>
- [c.ec.europa.eu/repository/bitstream/JRC112157/jrc112157_pubsy_platform_workers_in_europe_science_for_policy.pdf](https://ec.europa.eu/repository/bitstream/JRC112157/jrc112157_pubsy_platform_workers_in_europe_science_for_policy.pdf).
- Ratzmann, N. (2020). Caught between the local and the (trans)national: EU citizens at the front-line of German welfare policy. In *CASEbrief 37*. Centre for Analysis of Social Exclusion. Available at: http://sticerd.lse.ac.uk/CASE/_NEW/PUBLICATIONS/abstract/?index=6808.
- RBB24. (2020). *Sammeltaxi-Dienst Clever Shuttle gibt in Berlin auf - Bahn zieht Notbremse wegen roter Zahlen - | rbb24*.
- Statista. (2019, December). Internetnutzung in Deutschland. <https://de.statista.com/themen/2033/internetnutzung-in-deutschland/>.
- Thelen, K. (2018). Regulating Uber: The politics of the platform economy in Europe and the United States. *Perspectives on Politics, 16*(4), 938–953.
- Urzì Brancati, M. C., Pesole, A., Fernandez Macias, E., & Publications Office of the European Union. (2020). New evidence on Platform Workers in Europe (EUR 29958 EN). <https://publications.jrc.ec.europa.eu/repository/handle/JRC118570>.
- Wagner, B., & Hassel, A. (2016). Posting, subcontracting and low-wage employment in the German meat industry. *Transfer: European Review Of Labour And Research, 22*(2), 163–178. <https://doi.org/10.1177/1024258916636012>
- Woodcock, J., & Graham, M. (2019). *The gig economy: A critical introduction*. Cambridge: Polity Press.