# Societal Implications of Media Platformisation

## *Opportunities and Pitfalls for Policy and Governance in the Digital Age*

CONFERENCE BY
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# Unfair Treatment of Platform Workers

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# Outline

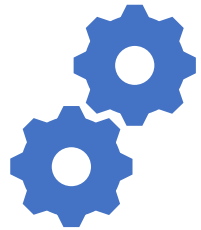1. Setting the Stage: Platform Workers

2. Unfair Treatment: Causes
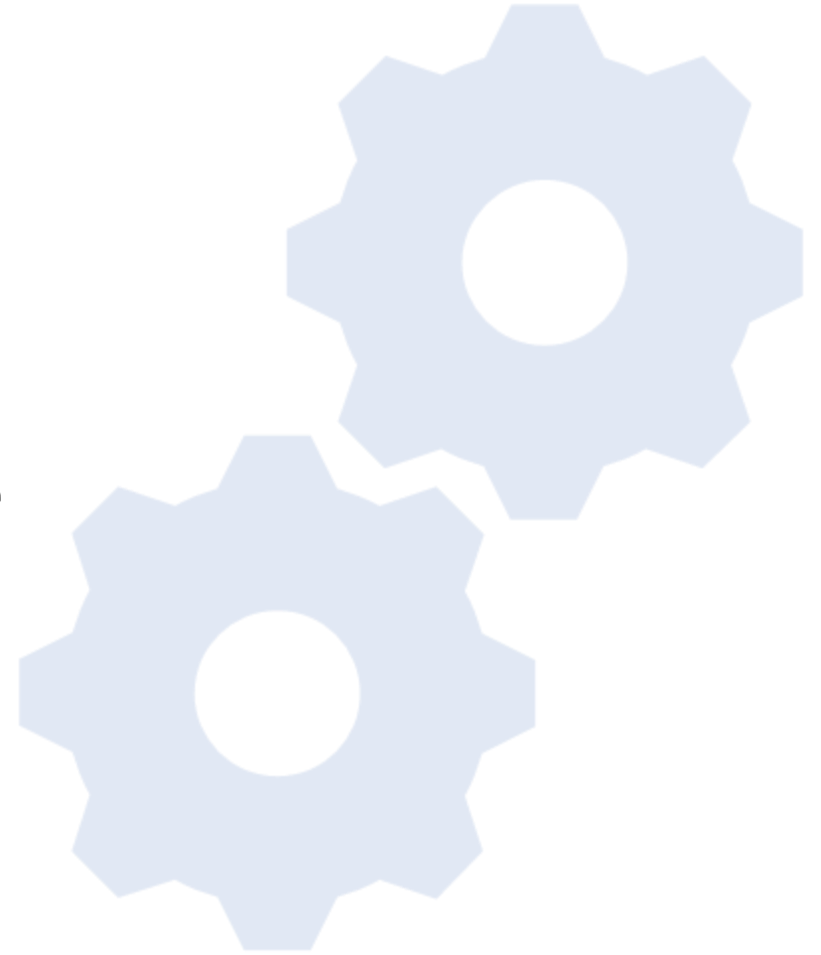
3. Regulatory Perspectives in the EU

# 1. Setting the Stage

# 1.1. Numbers in the EU

## 2. How many of them are there?

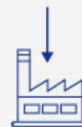Platform workers make up a **substantial labour force** in the EU.

**2022**
**28.3**
million digital platform workers

**+52%**
And this figure is expected to **grow rapidly.**

**2025**
**43**
million

Similar to the number of people employed in manufacturing (29 million)

# 1.2. What is a Platform Worker?

Someone who uses an online platform to have access to other individuals to solve specific problems or to provide specific services in exchange for payment.

Def. Council of the European Union

# 1.2. What is a Platform Worker?

## Different Narratives

1. How do the platforms see their workers?

Entrepreneurs

2. How does the industry see platform workers?

 Less expensive business solution

3. How do platform workers see themselves?

Temporary worker. Secondary source of income. Precarious worker.

Why does it matter?

The definition of their status <span style="color:red">matters</span> to <span style="color:red">determine</span> how the law will <span style="color:red">regulate</span> their activity in the platform.

Platforms that connect workers to hiring parties are not a uniform block.

The literature points out two categories:

1. Professional crowdsourcing platforms
2. On-demand work platforms.

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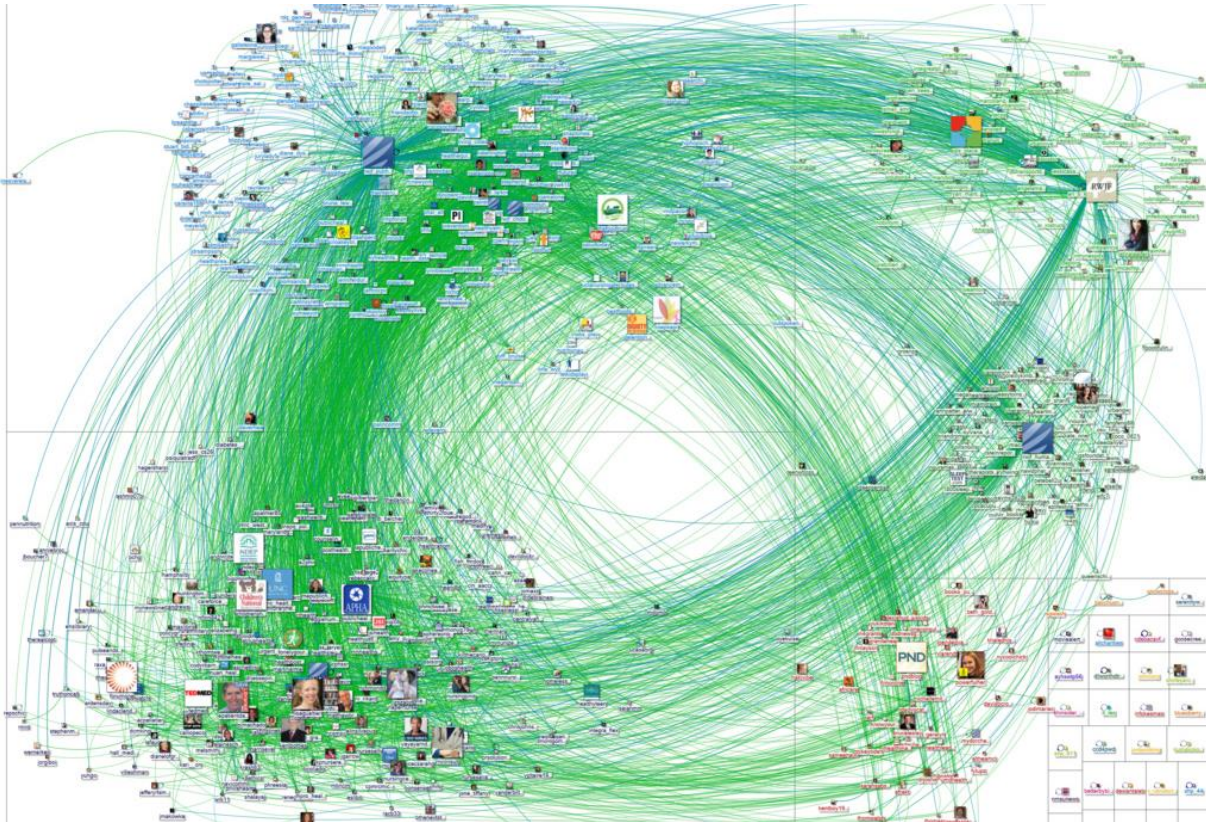With the support of the Erasmus+ Programme of the European Union

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# Crowdsourcing Platforms

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A crowdsourcing platform is an online platform that allows individuals or organizations (hiring parties) to request services from a large group of people often referred to as the crowd.

→ Main aspects of crowdsourcing platforms:

❖ Ultra-fragmentation of tasks;

❖ Geographic delocalization; (workers can be located in different countries)

*"Keep what is core and outsource what is non-core".*

Example: amazon mechanical turk

# On-Demand Platforms

# On-Demand Platforms

➔ On-demand work platforms provide access to services that are executed mainly locally.

➔ On-demand Platforms have a geographic local dimension, considering that the execution of the task depends on the worker's physical presence.

➔ This type of platform notably includes tasks involving manual content, such as household cleaning, babysitting, and transportation services, etc.

Example: Uber, Deliveroo,
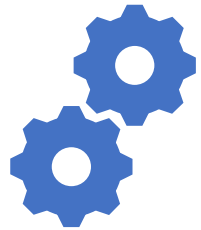
# 2. Unfair Treatment: Causes
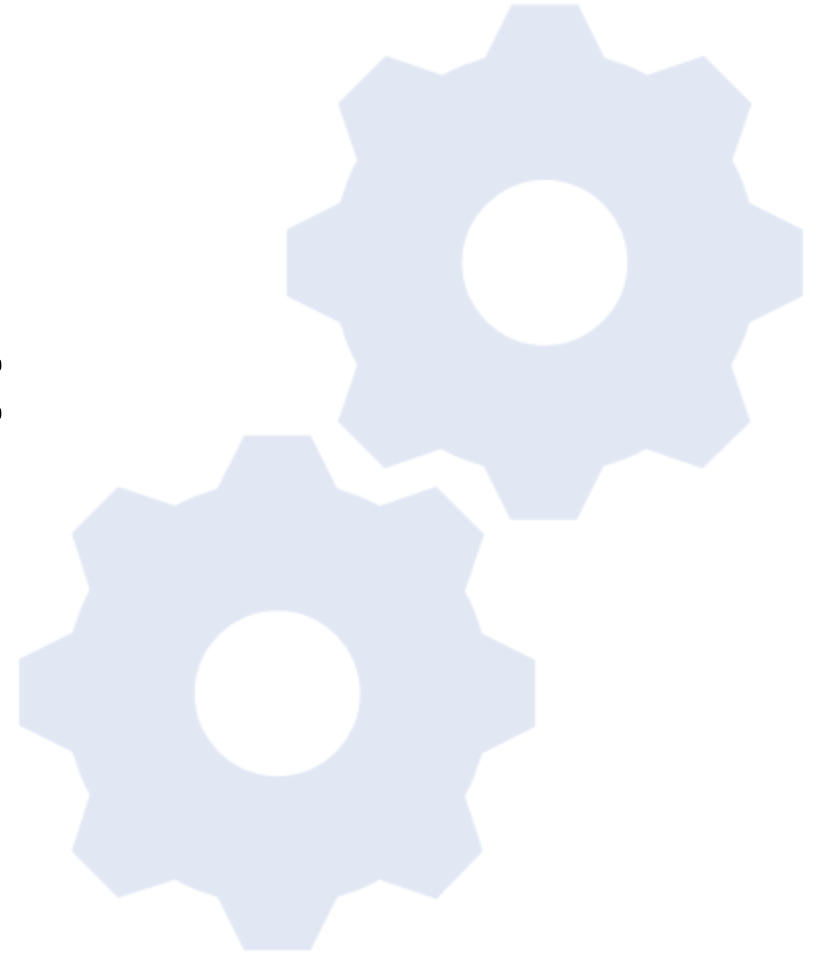
# 2.1. Unfair Treatment: Social & by Design Causes

1. Low Wage Due to Delocalization

2. Lack of Employment Protections

3. Limited Recourses for Dispute Resolution

4. Lack of Collective Voice

5. Unequal treatment due to design: rating, matching and ranking

# Low Wages Due to Delocalization

- Platform/Companies with **revenues in developed** countries have their workers **located in developing countries**.

- These workers are willing to provide work in exchange for lower compensation compared to the workers who reside in the same location as the platform is established.

- This is typically related to crowdsourcing platforms.

# Lack of Employment Protections



- When platform workers are located in countries where they are legally protected in several ways, they may still lack adequate protection.

- This is because labor laws traditionally apply to employees rather than to genuine self-employees (freelancers).

- Most part of platform workers do not have an employment contract.

- Employment protection may include minimum wage, health benefits, paid time off, comprehensive protection against unfair treatment (based on aspects such as their sexual orientation or age, for example).
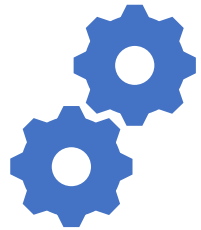
# Algorithmic Management

- Several on-demand work platforms rely on algorithms as a strategy to manage their workforce.
    - Ex. Customer Ratings – used as a <u>basis</u> to
    1. terminate platform workers' contract;
    2. to rank workers in the platforms;
    3. to match workers with hiring parties.

- Issues related to workers' management through ratings:
    - <u>Bias i</u>n user ratings
    - <u>Lack </u>of <u>transparency</u>
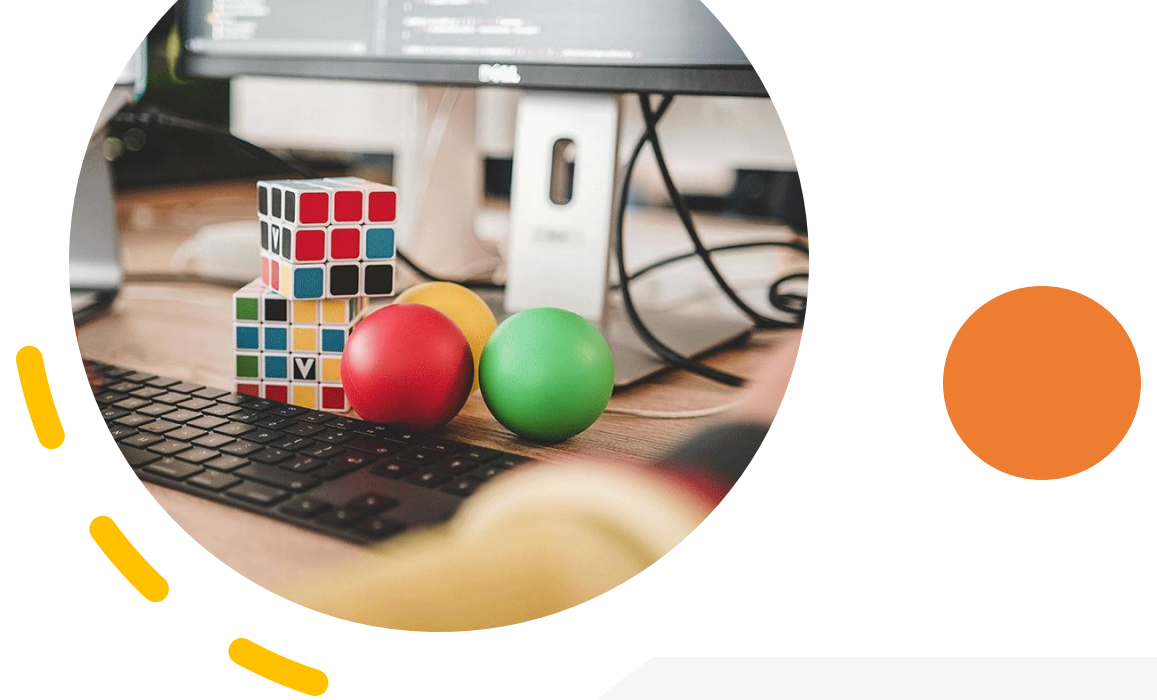
Your Rating | Average F

# 3. Regulatory Perspective in the EU

# Proposal Directive Platform Work

- Proposal for ==“Directive of the European Parliament and of the Council on Improving Working Conditions in Platform Work”;== Brussels, 9.12.2021

- This proposal <u>does not</u> resolve the problem of low wages due to geographic delocalization.

- But it <u>gives us some perspectives</u> to the unfair treatment issues related to ==employment misclassification== & ==algorithmic management==.

- The final text is to be negotiated between EU Commission, Council and Parliament.

# Lack of Employment Protections

→ A significant amount of platform workers <u>lack employment</u> protection because they do not have an employment contract.

→ But even if platform workers do not have an employment contract, they <u>may be considered as employees</u> If, <span style="color:red">in fact</span>, some conditions are fulfilled.

→ In the past years, <span style="color:red">EU national courts</span> have ruled several cases regarding platform workers employment classification. These courts had to assess whether they were employees or not. Uber in the UK, France. Deliveroo in Belgium, Netherlands.

→ The <u>directive aims to clarify this issue</u> in its proposed article 4 which introduces a <mark>legal presumption</mark> regarding the contractual relationship between a digital labor platform and a person performing platform work.

→ It presumes that this relationship between the platform and the workers is an employment relationship if the platform **controls the performance** of work .

# Control of Performance

Article 4

(2) Controlling the performance of work within the meaning of paragraph 1 shall be understood as fulfilling at least **two** of the following:

1. Effectively determining, or setting upper limits for the level of remuneration;

2. Requiring the person performing platform work to respect specific binding rules with regard to appearance, conduct towards the recipient of the service or performance of the work;

3. Supervising the performance of work of verifying the quality of the results of the work including by electronic means;

4. Effectively restricting the freedom, including through sanctions, to organize one's work, in particular the discretion to choose one's working hours or periods of absence, to accept or to refuse tasks or to use subcontractors or substitutes;

5. Effectively restricting the possibility to build a client base or to perform work for any third party.

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# Algorithmic Management

Proposal for the "Directive of the European Parliament and of the Council on Improving Working Conditions in Platform Work"

Articles 6,7,8 → relate to algorithmic management.

**Article 6 - *Transparency on and use of automated monitoring and decision-making systems***

→ The provision requires online platforms to inform their workers about automated systems to supervise or evaluate work performance.

→ Why is this important?

→ Workers can argue against something they are aware of the existence.

**Article 7 – *Human monitoring of automated systems.***

→ It requires human monitoring of automated systems, such as automated termination of contracts.

**Article 8 – *Human review of significant decisions*.**

→ It establishes the right for platform workers to obtain an explanation from the platform for a decisions taken or supported by automated systems.

## Conclusions

- Platformization of the labor market: adverse impacts on workers' social security, employment protection, and equal treatment.

- Highlighted reasons: low wages due to geographic delocalization, lack of employment protections, and unequal treatment resulting from algorithmic management.

- The proposed Directive on Improving Working Conditions in Platform Work aims to address some of the unfair treatment issues.

# More info on

# Thank you for your attention

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