

POLICY BRIEF BERLIN



POLICY BRIEF: OVERVIEW AND SUMMARY

The employment status and social security of platform workers have become a subject of political debate in Germany and Europe in recent years. In Berlin, this issue affects over 10,000 workers who often work under precarious conditions. Based on the research of the PLUS project, this policy brief identifies the main issues facing platform companies, the regulation of their labor relations, and the challenges for building an infrastructure of platform cooperatives. To do so, we propose policies, regulations, and draft legislation in the following areas:

- Enforcement of existing regulations
- Social security regardless of employment status
- Living wage for all employees
- Diversity obligations for platforms
- Establishment of consultation centers (Worker Centers)
- Ensuring representation and co-determination
- Financing and consulting services for platform cooperatives
- City tax for platform companies
- Research and monitoring of platform work

RESEARCH RESULTS

Since 2019, the PLUS project has been researching the platform economy in Berlin. At the core of this research were 43 qualitative interviews with workers at Uber and Helpling and hosts at Airbnb, complemented by focus group workshops and policy workshops with workers, unions, and the Berlin Senate administration. PLUS research in Berlin was conducted both before and after the onset of the Covid 19 pandemic (between November 2019 and October 2020). Both

the employment status and the social security of workers differed for each platform company. In each case, however, the need for local and federal action was evident.

Employment status: precariousness despite contract

The question of employment status is at the heart of the debate about platform work. The practice, which is now common in Germany, differs from that of many other countries, where platform companies refer to their employees as independent contractors ("bogus self-employment") with reference to their intermediary status. With the exception of Helpling and a few other companies, most platform workers work in a contractual employment relationship. However, the conditions of this formal employment are often precarious, semi-formal, and in practice often violate labor law. Uber drivers in Berlin, for example, usually have contracts, but often work significantly longer hours than the contract states and are often paid on a piece-rate system similar to 'classic' gig workers. Probationary period regulations (which have also been extended for startups in Germany) provide loopholes for companies to undermine fair working conditions and minimum wages. De facto, platform work in Germany thus continues to be performed as atypical employment and thus joins an increasingly unsecured labor market.

Social security: risks for many

Social security and social protection in Germany are closely linked to the employment status of workers. Since both the status and the exact conditions vary widely among platform workers (from self-employment to probationary employment to permanent contracts), no general conclusions can be drawn here. However, most platform workers are either completely or largely excluded from the German social security system. If they work under "mini-jobs" or student contracts, the employer pays no health and unemployment insurance costs and hardly any pension insurance; if they are self-employed, high insurance contributions have to be paid.

The Covid 19 pandemic highlighted the precariousness of these circumstances: the lack of demand in the companies we studied led to an immediate loss of income and high financial losses for many workers. This was most evident in Helpling, where self-employed cleaners usually had no safety net at all, and to a lesser extent in Uber, where subcontractors were able to fund their workers with reduced hours assistance.

Platform cooperatives: Alternative models with challenges

In Berlin and other cities, the platform cooperative model has gained traction in recent years. Cooperatives such as the delivery collective Khora, the mail order company Fairmondo, and the tech collective coopcycle have demonstrated public benefit-oriented ways off as an alternative to for-profit platform models. However, in practice, these models face numerous

difficulties and need to be supported by policy measures. Without targeted support, these models cannot become more broadly established and will exhibit similar (or more severe forms) of precarious work at the level of working conditions as in the for-profit sector.

POLICY-LEVEL IMPLICATIONS

Employment Status

- **Lack of enforcement of existing law:** Although the introduction of employment contracts has benefited many platform workers, there is widespread subversion of contractual standards and use of semi-legal loopholes.
- **Remaining risks of self-employment:** Although contractual employment has become established in Germany, many workers still work as freelancers with self-employed status. Their circumstances are extremely precarious; they can be excluded from the platform from one moment to the next and for no reason.
- **Probationary period as a management tool:** More and more platform companies hire their employees with one-year fixed-term contracts and a probationary period of up to six months. This practice is criticized by experts in labor law, trade unions and organized workers as a management tool. Particularly in the delivery and ride-hailing sectors, companies use these arrangements to allow for the labor turnover necessary for their highly flexible business models.
- **Barriers to forming works councils:** The ability to form a works council is an important factor in empowering workers. This also applies to employees in platform companies. The case of the Gorillas company in 2021 made it clear how companies prevent the formation of works councils and that works council law often does not do justice to the practice of platform companies.

Social security

- **Risks of atypical low-wage work:** Platform workers do not have the same social rights as regular employees. Although they often work increased hours at low wages, they have little access to state security and welfare instruments. Like other atypical forms of employment, the practice of platform work raises the question of security beyond employment status.
- **Lack of safety nets for migrant workers:** The vast majority of platform workers in Berlin are migrant workers (first, second or third generation). Platform work serves as an entry point for them into the local labor market, but often represents a dead end with no opportunities for advancement. In order for platform work to become a form of work with alternatives, all workers should have access to safety nets during unemployment and to support in terms of housing and basic services.

- **Gender risks:** The federal government's recent gender equality report shows that women face more specific problems when working on platforms (e.g., algorithmic discrimination, security risks, i.e., sexual harassment, etc.). Platforms often deny responsibility for this, citing their intermediary role. Our research confirms these risks and suggests that addressing them is the responsibility of platform companies.
- **Gender-based challenges:** Our research challenges the widely held assumption that platform work allows women to better coordinate reproductive and caregiving work at home with work schedules. In fact, our research found that this is not the case for female workers dependent on platform work, who must work additional hours to generate a living wage. Therefore, platform work is not currently an appropriate option for women caregivers to earn a living.
- **Unequal access to Covid relief funds:** Despite being highly exposed to the risks of the pandemic and sometimes performing systemically important tasks, many platform workers were not eligible for Corona relief funds.
- **Research and monitoring of platform work:** large cities represent a key experimental area for platforms. Here, innovative digitally mediated services but also new forms of work relationships are tested. Cities and neighborhoods are also sites where conflicts over platforms are played out. Research should focus on the local landscape of platform work and thus stimulate, accompany and evaluate political interventions. Approaches such as action research are desirable, which, in close connection with the people doing the work, can highlight the problematic points that have not yet been researched much, e.g., in relation to algorithmic discrimination, health risks, data protection, gender risks, etc.

Platform cooperatives as alternatives

- **Legal and financial hurdles:** Berlin has become an experimental field for platform cooperatives in recent years. Delivery service co-ops like Khora have been established in recent years, but usually face problems regarding their legal status, limited access to technology, and lack of municipal funding opportunities. Opportunities for funding and guidance can enable sustainable platform infrastructures in the city (even beyond the concept of a cooperative).

POLICY RECOMMENDATIONS

1. **Enforcing existing regulations:** Given the numerous contract violations found in the platform economy, cities should commit to ensuring compliance with contract terms by businesses and sub-businesses (such as through the trade inspection office or the regulatory office).
2. **Social protection beyond employment status:** the stark contrast between the social protection of employees and the self-employed should be reduced and, in

perspective, eliminated. Solo self-employed who earn below subsistence level or are excluded from platforms for no reason should be entitled to security benefits. Unemployment benefits and emergency assistance should be provided to workers regardless of their employment status, visa or residence status. Probationary periods should be reduced to one month and special rules for startups should be removed.

3. Living wage: for both employees and self-employed, payment should be linked to the minimum wage and ensure that full-time employees on platforms reach it without having to work more than 40 hours per week. If the minimum wage is lower than the living wage (which is currently the case), local authorities should incentivize fair pay and sanction non-compliance. A complaints office (see Recommendation 5) should be established for this purpose.

4. Diversity obligations for platforms: Platforms should be required to adopt a code of diversity, against gender discrimination and racism; platforms should be required to establish a complaints office to which workers can turn if they experience racism or discrimination of any kind.

5. Establishing Worker Centers: at the city level, worker centers should be funded to provide labor law advice and a complaints office in different languages, specifically targeting migrant platform workers (with regard to visa, registration and housing situation) and providing them with a physical space for face-to-face meetings.

6. Ensuring representation and co-determination: representation of platform workers should be facilitated and enabled, regardless of whether they are salaried or freelance; the Works Constitution Act needs to be updated to include workers who are not tied to a physical company location. Legislation at the federal level could be combined here with experiments at the city level.

7. Funding and guidance for platform cooperatives: platform cooperatives are viable and sustainable alternatives to established for-profit businesses. Both municipalities and the federal government should provide funding opportunities for groups in their start-up and development process and offer advice for workers.

8. Steps towards a sustainable platform economy: the platform economy benefits greatly from public infrastructure. Companies need to contribute to the social-ecological costs of their business models in every way possible. They can, for example, be obliged to pay a city tax, which must cede the profit from the existence of the public infrastructure on a pro rata basis.