

The rise and growth
of the gig economy in the Netherlands



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Amsterdam, March 2018
Commissioned by the Ministry of Social Affairs and Employment

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English summary

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Reference to complete report in Dutch:

SEO Report No 2018-30

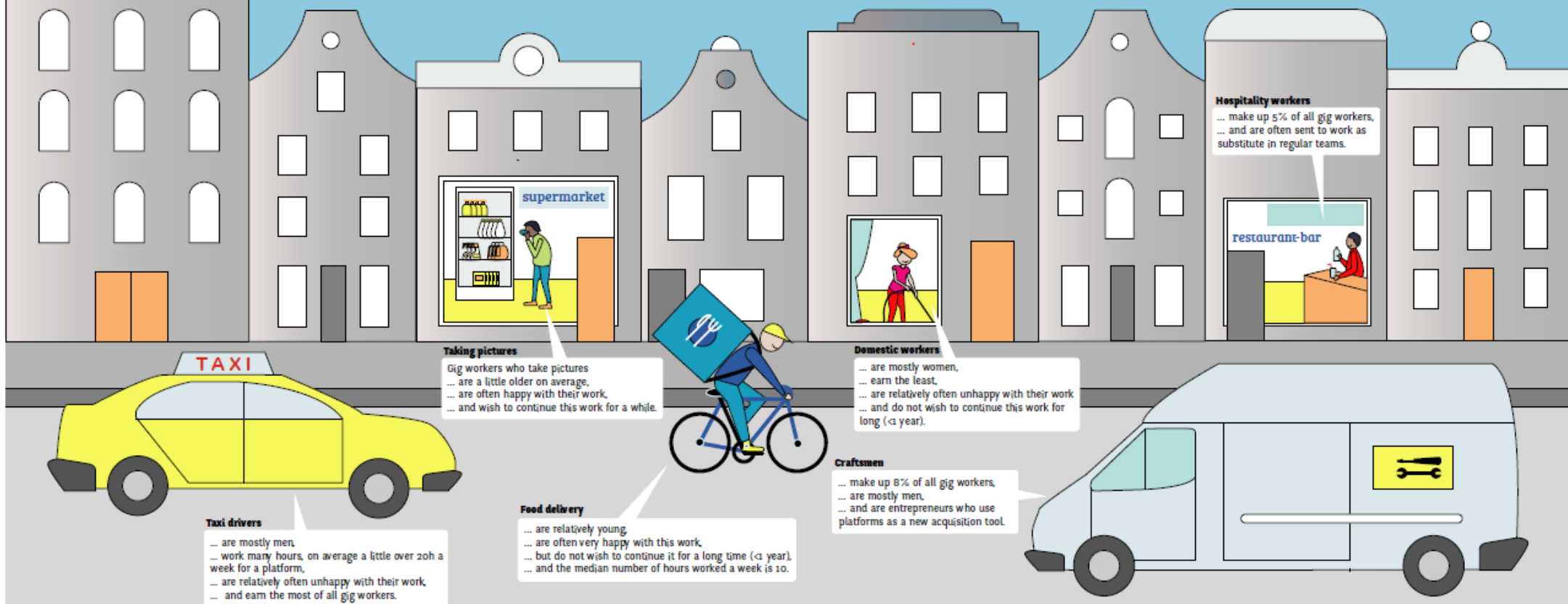
ISBN 978-90-6733-913-1

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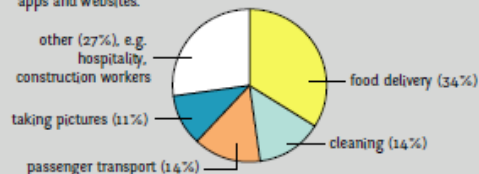
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The gig economy in the Netherlands



Size and income

Approximately **0.4%** of the working population (approximately **34,000** people) is a 'gig worker': they perform physical labour and gain assignments through apps and websites.



The **average gig worker** works 11 hours a week and earns €300 per month. This means a median hourly rate of €13. However, there are big differences between the workers

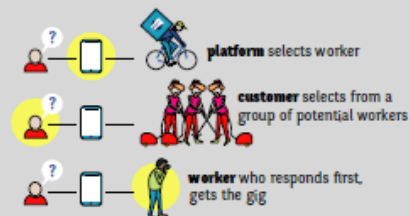
Growth and potential

Owing to the rise of the internet and smart phones, the gig economy has seen a strong growth.

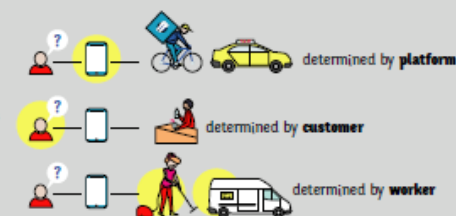


Most platforms are currently loss-making and try to gain market share: they strive to double in size in just a few years. If matching supply and demand becomes more expensive because of developments in laws and regulations, this could curb the growth.

Division of work: 3 forms



Determining rate: 3 situations



Implications

To what extent is working in the gig economy different than existing work, and what are its legal implications? Due to the diversity of the gig workers, not every gig worker experiences the same implications. Therefore, a theme has been identified for each type of gig worker. These are expounded in Chapter 5 of the accompanying report.

Implication themes: **Classification** **Employment intermediation** **Precarious work** **Fragmentation**

Summary and conclusion

The rise and growth of the gig economy raises the question of to what extent this work is new or different compared to traditional work. Companies and governments see opportunities when consumers and companies find new ways of providing services and when idle capacity is being utilised. This, for example, includes food delivery, passenger transport, and professional and domestic services (such as cleaning) through platforms. In the gig economy, supply and demand are brought together more efficiently with innovative technology by relatively young companies. At the same time, a number of questions arise with regard to what the gig economy is exactly; how big the phenomenon is or can potentially become; and to what extent this entails new forms of working. It is not always clear how the work should be defined in terms of labour law, social security law, or tax law.

This research defines and examines the state of affairs with regard to the size and potential of the gig economy in the Netherlands, the work practice, and the implications in terms of labour law, social security law, and tax law. The research is a benchmark study which describes how existing and new platforms can be interpreted and what the implications are in terms of policy. It is based on a relatively narrow definition of the gig economy, involving workers who perform physical labour in the Netherlands and who obtain assignments primarily through online platforms (an app or website). In this report, the relevant companies in this market are referred to as platforms, and the people working are referred to as workers. The ultimate consumers of a service are denoted as customers or consumers.

Size and income

The current size of the gig economy in the Netherlands is relatively small: 0.4 percent of the working population (34,000 workers) is active as worker in the gig economy. Of this, approximately one third is involved in food delivery. The majority of the workers work less than 20 hours a week, although there are large differences between the number of worked hours for taxi drivers and craftsmen and part-time food couriers. A considerable part of the workers is young and highly educated, but especially in domestic services there are many who are low educated. The population of workers is therefore very heterogeneous, which makes a single characterisation of 'the gig worker' impossible.

The surveys conducted for this research show that the workers on average make € 787 per month, working 20 hours a week. This takes into account paid time (actual performing of task) and unpaid time (for example, waiting time). On average this results into a fee of approximately € 15 an hour. However, there are large differences between the incomes of different workers, which are not captured by these average numbers: 25 percent is working (including unpaid hours) for a maximum of € 8 an hour, while workers in the top quarter of the income division make at least € 19 an hour. The income also differs depending on the activities, with taxi drivers earning the highest income and cleaners making the least.

Growth and growth potential

The growth has been steep, especially owing to the rise of the internet and the rise of smartphones with apps in particular. These apps are increasing the demand because it is fast and easy to order a taxi or meal, and they increase supply because workers can easily indicate their availability (supply of labour). Furthermore, in the past five years, several financially strong foreign companies and investors have become active in the Netherlands, which has caused the market to grow. These foreign companies are currently some of the largest players, and they focus on further expansion of their services. The greatest share of activities takes place in the large cities of the Randstad. Here, the demand for goods and services and the supply of workers are sufficiently large to guarantee good service. Most platforms are strategically expanding to other large cities in the Netherlands, with ambitions to ultimately offer nationwide services.

The potential of the gig economy in terms of employment opportunities depends on the possibilities to upscale current activities and develop new activities. In addition to the demand for goods and services and the supply of sufficient workers, these possibilities also depend on the development of laws and regulations in this field. Currently, most of the platforms are loss-making and are trying to obtain market share. If matching supply and demand becomes more expensive due to developments in laws and regulations, such as obligations in terms of labour law or social security, this will most likely curb the growth. The current platforms have the ambition to at least double in size within a few years by expanding their current services. Additionally, the incumbents state that there is room for new parties offering new services and that existing platforms are targeting other markets and services with their technologies or intend to do so. The choices for new activities are motivated by opportunities to develop short-term and temporary work activities for which a sufficient number of qualified workers are available. This includes substitute jobs that are currently covered by the employment agency sector.

Working practice and business models

The platforms researched use different models to bring together supply and demand. Workers are employed under different conditions. Based on interviews and focus groups, the study examines which personal work arrangements are present and how these are shaped in practice. In this case it is about the envisaged personal work arrangements and legal status as described by platforms and workers, rather than assessing whether the classification is legally correct in all cases. The first and most common personal work arrangement between platform and worker is that of independent contractors qualifying as entrepreneur from a tax perspective; workers who enter into a contract for services with the ultimate consumer of the service or with the platform and who declare their taxes as entrepreneur subject to income tax rules. At the end of 2017, this group amounts to approximately 22,000 people. The second common envisaged personal work arrangement is an employment contract between platform and worker. This arrangement is adopted within a number of food delivery companies, with approximately 5,000 workers at the end of 2017. The third personal work arrangement identified is working under the conditions of the *Regeling Dienstverlening aan Huis* (Regulation Care and Support at Home). This regulation is especially used for domestic services. This often entails an employment contract between the household and the worker. At the end of 2017, approximately 3,000 workers are active in this manner through a platform. The last personal work arrangement is that workers are active as independent contractors without being an entrepreneur subject to income tax rules. They are supposed to declare their incomes as resulting from other activities. For example, this is the case with the performance of micro tasks, such as taking

pictures of products in supermarkets. At the end of 2017, approximately 4,000 people are active in this manner.

Entry barrier

For all platforms, there is a low barrier for workers to apply and become active on the platform. Potential workers must meet a number of minimum requirements in order to be accepted. In most cases, it only takes a few days before someone can get to work through a platform. The exact minimum requirements differ per type of work, but they at least include any legally set minimum requirements (for instance, taxi drivers must be in the possession of a taxi licence). The low entry barriers are judged as a positive feature of working in the gig economy by workers.

Division of work

The fact that a worker is registered or signed up with a platform, does not mean that he or she actually has work. There are three types of work division in the gig economy. In the first type, a platform selects a worker who may perform a gig. For example, this is the case with food delivery gigs and other gigs that are to be conducted on very short notice. Location is often a decisive factor. The second type is that a group of potential workers is selected, after which the customer makes a decision. Ratings play an important role in this. This situation occurs, for instance, with domestic service providers and other gigs that involve a direct relationship between the customer and the worker. The third type is all about speed. The worker who is the first to react may perform the task, without influence from the customer. This is the case with micro tasks.

Hours worked

The number of hours that are worked by workers through a platform differs greatly within a certain platform or between different platforms. The reason is that platforms give their workers the freedom to decide on the number of hours they wish to be available to work. The number of worked hours varies depending on the workers' preferences and available time for gig work. The lowest number of hours belongs to workers who perform micro tasks. Time effort for the performance of these tasks is usually less than 10 minutes, and the offer of gigs is relatively limited. These workers often do not work more than a few hours a month. Taxi drivers work the highest number of hours through a platform. Several taxi drivers not only work through platforms but also obtain customers through other taxi services or directly from their local network. For drivers, the choice to work for a platform or another taxi service depends on the current demand at any time. Craftsmen adopt a similar strategy because the platform merely offers a way for them to obtain additional customers.

Rates

With regard to determining the rates for workers, three situations can be distinguished among the platforms studied in this research. In the first case, the platform determines a rate which the worker cannot influence. This is the case, for instance, for food couriers and taxi drivers. Workers in this situation often find that the price rating is not transparent. In the second case, the consumer of the service determines the rate, after which workers can decide whether or not they want to perform the job or gig at that rate. The worker has the choice to accept or decline. This applies to areas such as professional services (craftsmen). In the third case, the rate is determined by the workers themselves. This applies to professional services but is also relevant for workers in the domestic services industry. The last two situations are more valued among the surveyed workers.

Work satisfaction

In the surveys, a large majority of workers indicates they are satisfied with their jobs. Satisfaction is especially high among food couriers. Approximately five percent of the total number of workers in the survey is unsatisfied; this especially applies to cleaners and taxi drivers.

Implications for work and the legal context

In addition to the size and growth, this study also charted the implications of the gig economy with the help of the following two questions. To what extent is the work in the gig economy different than existing work? And what are the implications in terms of labour law, social security law, and tax law (hereafter: the legal implications, in which social security is focused on employee insurance schemes)? Because the gig economy is characterised by diversity in business models, types of services, and workers, it is not possible to provide a universal answer to these questions. This research therefore takes into consideration four relevant themes: classification, employment intermediation, precarious work, and the new phenomenon of micro tasks. These themes are present in all platforms, to a greater or lesser extent. For each theme, we have chosen one or several platforms of a certain type in which the themes are most relevant.

Classification

This theme has been examined with reference to food delivery platforms. The question whether or not these platforms should be marked as employers cannot be answered in general. This is because the question whether someone is an employee or a contractor depends on the facts and situation of the individual case within a general context. Platforms who aim to work with independent contractors instead of employees will shape their agreements and activities in such a way that there are as many indicators as possible that point towards workers as independent contractors (freedom to not work, providing for own materials, the possibility to be replaced, and the system of invoicing / VAT payment). Additionally, most of these platforms also feature indicators that do not point towards workers being independent contractors (for example, being unable to determine their own rate for the service, lack of other clients, an enterprise that was solely founded to be able to work via the platform and be an organisational part of the platform).

The organisation of the work differs from traditional labour-intensive organisations outside the platform economy: there is no physical work location, the contact between worker and platform takes place almost entirely through apps, e-mail, or websites, and supply and demand of work/assignments are matched as closely as possible. The discussion on classification of the personal work arrangements in the gig economy closely mirrors the discussion on the distinction between independent contractors and employees in the traditional labour market. A new element is that most of the business models are fully based on working with independent contractors and are arranged accordingly. The indicators that point towards a contract for services appear to be mostly motivated by a desire to avoid being classified as an employer. What is also innovative is that the core activity of the platforms is *solely* performed by independent contractors. If, based on the current legislation and case law, the personal work relation between these platforms (and platforms with similar business models) and worker qualify as a contract for services, the question may arise whether these independent contractors should effectively be seen as genuine, independent contractors/entrepreneurs subject to income tax rules. The idea behind the current differentiated legal taxonomy of personal work relations is to create a balance between, on the one hand, the protection of working people and the organisation of risk solidarity, and, on the other hand, stimulating and facilitating entrepreneurship. If the system offers too much room to create independent contractors, solely or

primarily aimed at avoiding the aspects of protection and solidarity, this above-mentioned balance may be disrupted. The described elements of the business models of different platforms that are active in food delivery are pointing to the latter.

Employment Intermediation

This theme was studied with reference to professional services (hospitality and craftsmen) and domestic services (cleaning). Many platforms consider themselves a ‘digital bulletin board’ where supply and demand of labour come together or as a intermediary of services. The platform’s role as an intermediary is not new. Within the existing context we are also familiar with forms of employment intermediation or posting of workers. This is regulated in the Placement of Personnel by Intermediaries Act (*Wet allocatie arbeidskrachten door intermediairs*, or Waadi). Once again, it is not possible to provide a conclusive universal answer to the question of whether the platforms are involved in employment intermediation or posting of workers in the sense of the Waadi. It can, however, be observed that supply and demand in terms of labour are brought together for a fee. In essence, that is an activity that falls within the scope of the Waadi. It is again the case that the level of complexity of the various definitions and the open interpretation of certain legal definitions, where all facts and situations play a role, provide the opportunity of avoiding as many indicators as possible that point to employment intermediation or posting of workers.

The platforms differ in the degree of influence they exert in intermediating. With craftsmen, this interference is very limited. They pay in order to be referenced on the platform (the obligation to pay becomes invalid as of 2018) and pay a fee when contact is made with a customer. After establishing contact between a craftsman and customer, the platform is no longer involved. This is very different in domestic services (cleaning). In this sector, the platform does not withdraw but remains involved with every new contact between worker and the household (cancellations, new postings) and makes money through this. The worker and the household are supposed to establish an agreement under the *Regeling Dienstverlening aan Huis* (Regulation Care and Support at Home). If this is the case, by rights of civil law, there is an employment contract. The platform determines a minimum rate and workers can establish their own price range on their account. This is different in the hospitality industry. A minimum rate is used, but above this rate workers can negotiate their own rates with the hospitality business. In the case of domestic services (cleaning) there are indicators that point to employment intermediation in the sense of the Waadi (because the involvement of the platform leads to an employment contract between the person looking for work and the customer). The position of the platform in case of craftsmen, rather seems to fall under the exception of the Waadi, which states that there is no employment intermediation when a company only makes available the details of vacancies or those of people looking for work. The hospitality industry may involve posting of workers since the consumer of the service (the hospitality business) seems to exercise supervision over the worker. If this is not the case, it may involve a notional employment relationship via an intermediary, a form of notional employment that cannot be contracted away like other forms of notional employment. Notional employment is a personal work arrangement that classifies as a contract for services, but nevertheless the worker is covered by employee insurance schemes and considered an employee for tax purposes.

Precarious work

This theme was studied with reference to food delivery, domestic services, and passenger transport. Precarious work is defined by the ILO as low-pay work with little security. There are a number of indicators that together may point to precariousness: low-paid work, job insecurity, workers have

little control over conditions, pay, or work arrangements, little protection, work risks fall to the worker. Precariousness in this sense can occur both with employees and independent contractors. Regardless of the personal work arrangements that occur in the gig economy, it virtually always involves a high degree of flexibility and low security in terms of work and income. The question is whether this means that there is a new precarious group. This does not seem to be the case, because it involves work that is often seen as precarious in the regular labour market as well. This is especially true for domestic services and passenger transport and to a lesser extent for food delivery.

Focus group results show that many workers experience insecurity about their income, legal position, and rights. In some cases, the type of work also entails certain risks. Furthermore, a relatively high number of hours must be worked in order to reach the minimum income. In the case of passenger transport, the investment for the taxi (through a lease construction or otherwise) needs to be earned back in addition to this. Additionally, most workers who work under a contract for services are aware that they need to make their own arrangements for unemployment or disability, but often they do not arrange this. The same applies to liability for damage caused by them. There is a high level of autonomy regarding their own work hours, but this is largely autonomy in a negative sense: the worker can choose at all times not to work but applying for work does not necessarily mean that work is available.

In many cases, the workers do not experience these conditions as problematic. The reason for this, is that they consider platform work complementary to other sources of income or as a side job. It has turned out that most workers are only active in the gig economy for a short period of time, and also expect this to remain to be the case. It is also found that workers in domestic services feel safer working via a platform than through traditional channels. Additionally, insofar the work in domestic services takes place in the informal economy, this decreases when the work is being performed via a platform. Platforms, after all, involve electronic payments that are easier to monitor than cash payments.

Fragmentation / Micro Tasks

Micro tasks are relatively new and are difficult to compare with traditional work. Often, these tasks do comprise parts of existing jobs. One of the characteristics of the gig economy is fragmentation of tasks: splitting off parts of a job and then offer it in isolation as work or gig. For example, photographing products in stores can be seen as a component of the work of sales representatives of certain brands. Regarding the population that performs these tasks occasionally, this form of work does not pose problems in terms of the current legal context. It may become problematic if industries are developed in which people have to collect an income solely from these tasks.

The definition of micro tasks is not entirely clear because there is a sliding scale between taking one photograph in a store through an app (clearly a micro task) and realising a dormer window for a private client through a platform (clearly not a micro task). In between are activities that are to a greater or lesser extent standardised. In the case of micro tasks, it often does not concern a main task for workers but rather side activities. Workers do not consider a possible lack of protection in terms of labour or social security law as something that is missing. They consider their work to be temporary or gain security from other work or sources of income. On the other hand, interviews with platforms show that they see opportunities to expand their activities to other sectors or forms

of work, such as healthcare and education. Performing micro tasks through an app is easily accessible, the rates are determined by the platform, and the performance of the gig offers much freedom. Usually there is no written contract and the average compensation is rather low. Workers declare their incomes as resulting from other activities or do not declare them at all because the compensation is negligible, apparently with the assumption that this excuses the taxpayer from his obligation to declare. The contractual relationship most likely qualifies as a contract for services. A relevant factor is, however, whether or not it may be a notional employment relationship (in this case the notion of ‘the equated’ – independent contractors that are by law deemed equivalent to someone in a position of employment for tax and social security purposes). In order to reach this, one has to generally earn more than € 145 a week. This is conceivable, but considering the rates that apply to current micro tasks and the limited number of worked hours, it is not probable. These workers fall outside the institutional system. If they do reach this goal (and comply with other requirements), a notional employment relationship is most likely concerned.

Perspectives for action

The research results in a benchmark for the gig economy in the Netherlands: size, growth, work practice, and legal implications. In response to this benchmark, a number of perspectives for policy action are drawn up.

Part of a broader debate

The implications of the gig economy for the legal context as described above fit within the broader debate about increasing flexibility of personal work relationships, the implications of tax stimuli for entrepreneurship, and their socially effective and practical regulation. Policy initiatives in the framework of the gig economy should not be regarded as separate from this, because these also involve a heterogeneous group of workers and a group of young innovative companies that, on the one hand, facilitate new ways of working and new employment opportunities, and, on the other hand, may lead to socially undesirable results in terms of protection and security.

The classification question is also important in the gig economy. In terms of civil law, the personal working relationship can involve an employment contract or a contract for services. The civil law classification forms the basis for the applicability of employee insurance schemes and tax classification. The classification issue and the rise of independent contractors have been subject to debate on an academic and policy level in the Netherlands for several years. This has led to various detailed studies, including recommendations. The phenomenon under scrutiny has also been addressed in the 2017 government coalition agreement, announcing broad legislative measures. The implications of the gig economy should be incorporated in these initiatives.

New dimension

The fact that the gig economy fits within a larger debate does not mean that there is nothing new to it. It is important to continue to monitor the developments of size and ways of working after this benchmark.

The manner in which platforms have established their organisation within the gig economy adds a number of dimensions. In most cases, the actual physical work that is being performed is not set apart from existing work (for instance: cleaning, food or product delivery, passenger transport, and hospitality work). However, the platforms are organised differently than classic employment organisations. The tasks are standardised to a great extent, which means they can be monitored from

a distance. There is no office or plant where goods and services are produced and where workers come together physically; rather, there is an app and a flexible team of workers who may apply or are called to work. A fixed group of workers who perform the core tasks of a company no longer exists, because all activities performed by the workers are the same. The app provides a more efficient way of matching the supply and demand of goods and services. This causes a shift in demand for services and creates new demand. In addition, most platforms are easily accessible. In this way, work is provided to people who prefer to perform these standardised tasks (temporarily or not) without having to invest in an interview procedure or specific education. It also offers more alternatives where services can be provided, which makes it easier to gain an income.

Labour law as a commodity

An important aspect of the organisation of work within platforms is utilising the possibilities offered by the current system in order to avoid a status of employment and create contracts for services. This is not a new trend in itself but in the gig economy it is an important part of the platforms' business model. Because many workers on a platform are active for a short period of time and in many cases only for a small number of hours, they hardly regard the lack of security or the power to negotiate as problematic. This does not mean that it may not become problematic if the gig economy grows or if, for many workers, it does not only comprise short-term, additional earnings. The development of platforms must be monitored. Furthermore, a balance must be reached between, on the one hand, stimulating the innovative way in which supply and demand are matched and the employment opportunities that arise from this, and, on the other hand, protecting the interests of workers.

Far-reaching expansion of this trend (by growth of existing platforms and entry of new ones) or a spread to traditional companies (that compete with platforms or find this form of work organisation appealing) can undermine the existing legal context. This could disrupt the current balance between protecting workers and organising risk solidarity on the one hand and stimulating and facilitating entrepreneurship on the other hand. A specific result from this development is that platforms are in principle inclined to take out liability insurance for workers who are active through the platform but decide not to facilitate this because this would entail an indication that the personal working relationship is an employment contract. This comprises a disadvantage, in particular for workers with a higher risk of accidents, but it can also be considered a social problem.

Compliance and monitoring

One of the observations is that some of the workers are not sufficiently familiar with their legal position or the rights and obligations involved. If workers do not know their rights (as employee or independent contractor), they cannot invoke them. In the case of employees, the employer is legally required to provide information, for example about salary, labour hours, etc. This obligation is not always complied with and is difficult to enforce. In the case of contractors, a general information requirement does not exist. A similar deprivation of information is seen in the regular labour market. In the case of platform work there is an extra dimension, namely the loose connection between worker and platform: no fixed working location and no regular colleagues. Unions and employee councils are often irrelevant or not present, therefore the provision of information (and the related enforcement and compliance with rules) cannot be secured through these channels either. Better provision of information is also a matter of concern on a European level: in December 2017, the European Commission issued a proposal for a new guideline for more transparent and predictable terms of employment, to update and replace the guideline for written notices

(91/533/EEG). The guideline is concerned with employees and not with independent contractors; the explanation however expressly refers to platform workers. This can be used from a policy perspective: the information obligations may (partly) be extended to include contracts for services.

The fact that the organisation of platforms operates entirely through the app, and that payments (with the exception of some gratuity) occur electronically, offers perspectives for compliance and supervision, for instance in the area of tax collection. Some types of work, such as domestic services, may be removed from the informal circuit on a larger scale. Tax regulations already give the tax authorities the ability to request platforms and/or external companies arranging the payments to supply information on their payments to third parties (in this case the workers).



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