

Opinion of the European Economic and Social Committee on ‘The changing nature of employment relationships and its impact on maintaining a living wage and the impact of technological developments on the social security system and labour law’

(exploratory opinion)

(2016/C 303/07)

Rapporteur: Kathleen WALKER SHAW

In a letter dated 16 December 2015, the Ministry of Social Affairs and Employment asked the European Economic and Social Committee, on behalf of the Dutch presidency of the Council and under Article 304 of the Treaty on the Functioning of the European Union, to draw up an exploratory opinion on:

The changing nature of employment relationships and its impact on maintaining a living wage

In a letter dated 14 March 2016, the Ministry of Foreign and European Affairs of the Slovak Republic, due to take over the presidency of the Council in July 2016, requested the European Economic and Social Committee under Article 304 of the Treaty on the Functioning of the European Union to provide an exploratory opinion in preparation for the informal EPSCO Council (14-15 July 2016) on:

The impact of technological developments on the social security system and labour law

(exploratory opinion)

Given that the request corresponded to much of the work being done under the opinion requested by the Dutch presidency, and in view of time constraints for the Council, it was agreed to combine the two requests into one opinion.

The Section for Employment, Social affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 12 May 2016.

At its 517th plenary session, held on 25 and 26 May 2016 (meeting of 25 May 2016), the European Economic and Social Committee adopted the following opinion by 201 votes to 3 with 4 abstentions.

1. Conclusions and recommendations

1.1 The changing nature of work and employment relationships is developing rapidly. The challenge for the EU is to encourage innovation, technological development and creativity to drive and deliver positive outcomes for a sustainable and competitive social market economy. The impact of these developments on the labour market and standards, economy, tax and social security systems and the living wage need to be assessed. Creating a level playing field and fair digital economy for workers and for enterprises of all sizes and sectors as well as scaling-up digital skills, are some of the most important challenges we have to tackle. Europe and its social partners have a key role to play to ensure that this process leads to a positive, fair and sustainable result, and that any grey areas in rights and protections are addressed.

1.2 The EESC considers it a priority to protect the quality and financial sustainability of social welfare systems across the EU, and recommends that the EU Commission and Member States in consultation with the social partners, undertakes research into best practice as a basis for developing social welfare models adapted to cover more flexible forms of employment, ensuring participation in appropriate levels of social protection for the entire workforce, including independent workers who fall outside the traditional welfare system. This should be given consideration in the development of the EU Pillar of Social Rights. We welcome the fact that EESC is looking at this issue in a separate opinion.

1.3 The EESC recommends further analysis on the impact of these developments on skills as well as an assessment of what provisions for life-long training, re-skilling and up-skilling are available to workers under these new relationships to avoid any deskilling effect of these innovations, or a negative effect on qualifications, and ensure better employment opportunities. Promoting and scaling up digital skills for all must be a priority in the EU.

1.4 The EESC believes more data and analysis is needed at EU level on the extent of crowd employment, the characteristics of crowd workers, the varieties of new forms of work such as zero hours and on-demand contracts and new professions, civil law contracts, the size of the 'platform economy', the sectors in which it operates and its geographical distribution across the EU. This will help to assess the needs of business and workers, when using these forms of employment.

1.5 Statistics on these developments need to be gathered more routinely through European labour surveys, and labour market reports identifying best practice where it exists. This will enable the impact of new forms of work and employment relationships on the labour market and economy to be monitored and their contribution to creating sustainable quality jobs and growth to be assessed to inform EU employment policy development, including the EU Semester and the 2020 Strategy. Horizon 2020 and other relevant EU funding lines should finance this research.

1.6 Longitudinal data is also required to establish the lifetime implications of new forms of work, and their impact on sustainability of work over the life course ⁽¹⁾. It is also important to identify the extent to which they are gendered or related to other demographic variables (such as age, disability, ethnicity and migrant status).

1.7 A clarification of the legal status of new labour market intermediaries such as online platforms is urgently required to enable them to be identified in the official statistics, to track their growth and establish which standards, obligations, liabilities and rules of operation should apply and which regulatory bodies should be responsible for inspection and enforcement, whilst recognising that these platforms can be a source of innovation, employment opportunities and economic growth.

1.8 The EESC notes that the European Commission is currently consulting on the Written Statement Directive ⁽²⁾ and anticipates that addressing new forms of employment relationships will be included in proposals should the EU Commission decide to revisit this legislation. In particular it is hoped that clarifications will be made as regards new forms of employment relationships and work, whilst taking account of the needs of SMEs. Consideration may also be given to extending the scope of application to cover 'workers'; for written statements to be provided from day one; and for a minimum number of hours to be stated to stem zero hours contracts.

1.9 The EESC recommends that in relation to online platforms, crowdsourcing, economically dependent self-employed and other new forms of self-employment, issues relating to regulation of the activity of the intermediary, liability for accidents, damage and service failures need to be addressed to protect workers, consumers and the public at large. There is a need for clarification of the applicability of existing EU regulations on safety and health at work for these new forms of employment, procedures for dealing with breaches of these regulations, responsibilities for inspection and for workers', consumers' and public liability insurance.

⁽¹⁾ France Stratégie, 'Le compte personnel d'activité de l'utopie au concret', final report.
OECD, 'Employment outlook 2014', p. 179.

⁽²⁾ Directive 91/533/EEC.

1.10 Labour inspectorates should be ensured a role to cover these employment forms in their remit according to national practices, and their inspectors provided with appropriate resources, competencies and training. The development of partnerships with trade unions, consumer or other representative associations could be helpful in addressing public concerns and seeking redress. Exchanging best practice will be an important part of this process.

1.11 The impact on collective bargaining coverage in affected sectors should also be analysed, given that many workers could be placed outside collective bargaining structures and trade union representation. The EESC is concerned that where workers are regarded as self-employed, their right to associate freely may be in question if their association could be regarded as forming a cartel, running a risk of being put in conflict with EU rules on anti-competitive practices. These concerns, which could undermine this fundamental right, need to be addressed and remedied. Guidance is needed around the application of competition rules to self-employed workers in an employee-like situation. In this context, the use of the ILO understanding of 'worker' rather than the more narrowly defined 'employee', could be helpful to better understand how fundamental principles and rights at work apply ⁽³⁾, the enjoyment of which EU competition rules should not impede.

1.12 The EESC calls for an investigation into the contractual status of crowd workers and other new forms of work and employment relationships, as well as obligations of the intermediaries, taking into account the ability of such workers to negotiate or determine pay, hours and conditions, holidays, pensions, maternity rights, employer-paid health insurance and other employment rights and protect the ownership of intellectual property produced. Guidelines are also necessary to clarify possible grey zones linked to employment status in relation to taxation and social insurance.

1.13 The EESC recommends that the European Commission, the OECD and the ILO work together with the social partners to develop appropriate provisions on decent working conditions and protection for online workers and workers under other new relationships. The EESC believes that developing an EU level approach would be beneficial, whilst noting that most actions will need to be carried out at national, sectoral or workplace level.

1.14 As the European social partners have indicated, it is important that the European Commission plans its employment policy agenda in a way that underpins the digital transformation of our economies and labour markets. It should, at the same time, aim to maximise quality employment opportunities that can arise from the digitalisation of our economies. Labour market policies should also aim to protect and re-skill/up-skill those who will be affected by digitalisation. The EESC recommends that effective rights and protections, monitoring and enforcement are put in place in this respect to avoid widening income inequalities and reduction in disposable incomes and ensure the sustainable potential for economic growth across the EU.

1.15 The EESC suggests that the European Commission should consider ways in which the development of European platforms can be encouraged in such a way that the value created remains in local economies, drawing on Europe's rich tradition of mutuality and cooperation in labour market coordination, often carried out at community level and with the active cooperation of trade unions, local employers and national associations of the self-employed. It would be important to consider measures that would help enterprises to create sustainable quality jobs by providing support beyond the initial 'start-up' phase to the expansion 'move out' stage where many new enterprises currently lack access to finance.

⁽³⁾ As shown by the Court of Justice ruling in the FNV-KIEM (<http://curia.europa.eu/juris/liste.jsf?num=C-413/13>) case in 2015, there is clear room for interpretation around the application of competition rules to self-employed workers in an employee-like situation. A 2014 study on contractual arrangements for authors and performers by IVIR also highlighted sectoral exemptions as a possible way forward highlighting a relevant example from Germany, where Article 12a of the Collective Bargaining Act allows certain self-employed authors and performers to benefit from collective bargaining. The study specifies that such exemptions 'are believed to serve the public interest by awarding protection to a group that economically and socially deserves it in the same way as employees'.

2. Introduction

2.1 Rapid development of technologies, combined with other economic and societal developments have seen an increase in new forms of work and employment relationships that are transforming and creating an ever more complex labour market landscape. Innovation and creativity are important in driving a sustainable and competitive social market economy. It is vital to achieve a balance between promoting the economic and social benefits of these new developments ensuring necessary safeguards for workers, consumers and businesses, whilst avoiding their abuse as a means of circumventing fair labour practices.

2.2 New forms of employment have the potential to create job opportunities, enable labour markets to function more smoothly, offering increased flexibility for both workers and employers, adding to the autonomy of workers and adaptability of work places, promoting skills development and offering increased scope to develop a positive work/life balance. At the same time, it is important to promote quality employment, social dialogue and collective bargaining structures wherever possible and address any lack of clarity about the rights and obligations of employers and workers; the employment status of workers; liability for accidents, insurance and professional responsibility; and the applicability of tax, social protections and other regulations. A comprehensive assessment of the ability of existing labour market and social security systems to face these developments is required to avoid greater income inequalities, ensure people can maintain a decent and reliable income and a balanced work and family life.

2.3 The EESC has considered issues related to these emerging trends in a number of opinions⁽⁴⁾ that have been helpful in informing this exploratory opinion. In the Netherlands and Slovakia, whose Presidencies requested this exploratory opinion, non-standard employment is close to 60 % and 20 % respectively⁽⁵⁾.

2.4 Recent reports from Eurofound⁽⁶⁾ and ILO⁽⁷⁾ have helped identify the shift from traditional employment relationships to more non-standard forms of employment over the past decade. The ILO states that 'The ongoing transformation in the employment relationship is having important economic and social repercussions. It contributes to the growing divergence between labour incomes and productivity and ... may be fuelling income inequalities'⁽⁸⁾. According to ILO⁽⁹⁾, among countries with available data, covering 84 % of total global employment, only around one quarter (26,4 per cent) of workers are employed on a permanent contract, whereas in high-income economies more than three quarters of workers are on permanent contracts. Even though the standard employment model is becoming less dominant, it remains an important element of the European labour market model. It highlights the importance for governments, EU institutions and the social partners to identify and define the new employment forms, develop and adapt policy and legislation to manage the change and ensure positive outcomes guaranteeing a favourable policy and regulatory environment to safeguard the interests of enterprises and working people in all forms of employment.

3. General trends in employment: the context

3.1 European economies have seen increases in a range of employment practices that on one hand challenge the traditional norm of a full-time permanent job with defined working hours, agreed rights and benefits and full inclusion in national social protection systems. On the other hand these can lead to more job creation and innovative ways of working and it is important to ensure the quality of such jobs in line with new business models. Some of these forms are associated with globalisation, digitalisation, changing production patterns such as the outsourcing of work previously carried out in-house, some with the introduction of new practices within companies and others with entirely new employment models.

⁽⁴⁾ OJ C 133, 9.5.2013, p. 77; OJ C 11, 15.1.2013, p. 65; OJ C 18, 19.1.2011, p. 44; OJ C 318, 29.10.2011, p. 43; OJ C 161, 6.6.2013, p. 14; OJ C 13, 15.1.2016, p. 161; OJ C 13, 15.1.2016, p. 40.

⁽⁵⁾ OECD, 'Reducing labour market polarisation and segmentation', presentation of S. Scarpetta, 2014.
ILO — Report for discussion of the meeting of experts on non-standard forms of employment.

⁽⁶⁾ ILO — Conclusions of the meeting of experts on non-standard forms of employment.

⁽⁷⁾ Eurofound, 'New forms of employment'.
Eurofound, 'Harnessing the crowd — A new form of employment'.

⁽⁸⁾ ILO, 'The changing nature of jobs — World Employment and Social Outlook 2015'.

⁽⁹⁾ ILO, 'Regulating the employment relationship in Europe: A guide to Recommendation No 198' — Employment Relationship Recommendation 2006 (No 198).

⁽⁸⁾ ILO, 'The changing nature of jobs — World Employment and Social Outlook 2015', pp. 13-14.

⁽⁹⁾ See footnote 8, p. 30.

3.2 New forms of work can open up new opportunities for individuals to set up as entrepreneurs and to enter occupations that were previously inaccessible to them, or to move out of the shadow economy of undeclared work. Measurements of entrepreneurial motivations show that more people start up for positive reasons (e.g. to make the most of a good idea) than for negative reasons (e.g. because they had no other options for work) ⁽¹⁰⁾.

3.3 New employment relationships include 'zero hours', 'on-call' or 'fly-time only' contracts, 'mini-jobs', 'portfolio work', voucher based work, civil law contracts, and job sharing arrangements. This is accompanied by a range of contractual forms whereby work is organised through intermediaries including 'umbrella companies', 'self-employment agencies', 'co-employment agencies' or online 'crowd sourcing' platforms. In many of these forms, workers are referred to as independent contractors, 'associates', 'taskers', 'partners' or other terminology that sometimes obscures their employment status. Although often regarded as self-employment, some of this work fails to meet criteria associated with genuine self-employment such as the ability to define tasks, set pay rates or own the intellectual property produced. In some sectors intermittent, occasional or seasonal work is typical for example in tourism, catering, and agriculture, and a degree of flexibility is needed with regard to both the employer and the worker. Whether such work is managed through an agency or independently, regulations relating to such contracts are necessary to avoid the scourge of undeclared work.

3.4 It is important to distinguish between genuine entrepreneurship, self-employed professionals and new forms of dependent own-account working, and to ensure the quality of work. Even for workers with formal employment contracts, developments in the organisation of work related to task-based assessment and project-based working are changing traditional working hours affecting the pace of life and income security. Social dialogue and collective bargaining have been successful in many workplaces such as call centres in addressing grey areas and improving working conditions.

4. Digitalisation

4.1 Digitalisation can increase productivity and flexibility in existing businesses and provide the basis for new industries and employment, contributing to Europe's growth and competitiveness. It also plays an important role in developing the social market economy and promoting work-life balance needs and reducing gender inequalities in employment and social security if it is managed effectively. The recently adopted joint statement by ETUC, BusinessEurope, CEEP and UEAPME is a helpful reference on this issue ⁽¹¹⁾.

4.2 Digitalisation has had a major impact on the organisation of work and employment, which warrants further political attention and management. It has also transformed consumer relations, leading to easy access to goods and services. Consumer satisfaction is high, but there are concerns about the impact of this on the economy and improvements are needed with regards to effective mechanisms for redress. Proactive policymaking at EU and national level must ensure the potential offered by digitalisation is unlocked whilst its pitfalls are avoided ⁽¹²⁾.

4.3 A very high proportion of the population has access to the internet from multiple locations and can, in principle, be contacted at any time and any place for work-related purposes, leading to growth in nomadic working and the breakdown of spatial and temporal boundaries between work and private life. This flexibility can benefit businesses and workers where interests of both are respected. Further examination is required into whether, and to what extent, employees' private and family lives require additional protection in a time of ubiquitous digital and mobile communication, and which measures, whether at national or EU level, are appropriate to limit this universal availability/reachability ⁽¹³⁾.

⁽¹⁰⁾ GEM 2015/2016 Global Report.

⁽¹¹⁾ Statement of the European Social Partners on digitalisation.

⁽¹²⁾ OJ C 13, 15.1.2016, p. 161, points 1.3, 1.5 and 5.6.

⁽¹³⁾ OJ C 13, 15.1.2016, p. 161, point 4.4.

4.4 The diffusion of ICT skills and familiarity with standard software and global languages have underpinned employers' ability to tap into global labour markets for outsourced work. This creates opportunities for European citizens to work for global clients regardless of location, but also poses threats of unequal competition for businesses and workers, in that they must compete with counterparts from low-wage economies for these jobs who may not be adhering to the core ILO labour standards and guaranteeing decent work.

5. Skills development

5.1 Technological change can enhance skills development, but may also have the potential to deskill workers in traditional occupations. The impact of these developments on skills should be considered as well as an assessment of what provisions for life-long training, re-skilling and up-skilling are required and available to workers under these new relationships. Businesses working together with trade unions, Cedefop and levels of government must ensure that skills are developed to match the demands of the changing world of work. Effective use of EU Social Fund and other resources in meeting these challenges is vital.

5.2 Ensuring people have the skills required to progress in quality jobs in the face of changing labour markets is a key challenge, and must be a central focus of the future EU skills agenda. Assessing how best to adapt skills, and scaling up digital skills for all must be a priority for the EU institutions and public authorities with the active involvement of the social partners at all levels. The EESC notes that this is already a commitment in the EU Social Dialogue Work programme 2015-2017.

6. Statistics

6.1 Reliable statistics on these developments are lacking. There is a need for data on the extent of crowd employment, the characteristics of crowd workers, the varieties of self-employment, economically dependent self-employment, bogus self-employment and precarious employment; the size of the 'platform economy', the sectors in which it operates and its geographical distribution, comparing the EU's position in the global context.

6.2 Statistics are also needed that enable the impact of new forms of employment relationship on the labour market, polarisation of work, income and economy to be monitored and to inform EU employment policy, including the EU Semester and the 2020 Strategy.

6.3 Longitudinal data is also needed to establish the lifetime implications of new forms of work, and their impact on sustainability of work over the life course and to identify the extent to which they are gendered or related to other demographic variables (such as age, disability, ethnicity and migrant status). The impact on collective bargaining coverage in the most affected sectors should also be analysed, given that many workers who wish to be covered could be placed outside collective bargaining structures and trade union representation.

6.4 Horizon 2020 and other relevant EU funding lines should support this research.

7. Legal status of labour market intermediaries

7.1 New forms of employment are developing so rapidly that contractual relationships cannot keep pace, which is why we need to look at their legal status. Clarification of the status of labour market intermediaries and online platforms is urgently required to enable them to be identified in the official statistics, to track their growth and establish which standards, obligations, liabilities and rules of operation should apply and which regulatory bodies should be responsible for inspection and enforcement. Differences in the terms and definitions of worker, employee, self-employed and intern across the EU further complicate assessments.

7.2 The EESC notes that the European Commission is currently consulting about the Written Statement Directive ⁽¹⁴⁾ and anticipates that new forms of employment will be included in the remit.

7.3 Online platforms are expanding rapidly with a generally positive impact on economy, employment and innovation whilst, in some cases, their development is on a scale that risks creating monopolies with the potential to distort the market and create unequal competition. The 'sharing economy' and other new employment models should not be abused as a means of avoiding paying decent wages, meeting tax and social security obligations and ensuring other employment rights and conditions by externalising costs to users and workers, and avoiding regulations imposed on offline businesses. This would risk undercutting businesses and workers in other sectors, undermining agreed standards as well as the level playing field.

8. Health and safety

8.1 Off-site employment could entail health and safety risks to workers, their clients and the general public. Work may be done in public spaces or private homes, using dangerous materials and equipment, without adequate instruction or protective clothing. Responsibility for insurance, certification and professional liability could be unclear. Online workers may carry out intensive screen work in unsuitable environments using furniture and equipment that does not meet ergonomic standards.

8.2 Liability for safety and accidents is a grey area in relation to some online platforms and needs to be resolved to protect workers, customers and the public at large.

8.3 Reference was made in the hearing of this opinion ⁽¹⁵⁾ to other issues which need to be assessed including exhaustion due to working long and unregulated hours and stress linked to the unpredictable nature of the work and income, non-payment for rejected work, receiving a poor customer rating that cannot be challenged, being 'deactivated' from the platform or contract, the challenges of managing caring responsibilities without a clear work timetable, social isolation and the combined effects of balancing multiple jobs.

8.4 There is a need for clarification of how far these new forms of employment are protected by existing EU and national regulations on safety and health at work and by procedures for dealing with breaches of these regulations, responsibilities for inspection and for workers', consumers' and public liability insurance. The Bilbao-based EU-OHSA could assist with research and analysis in this area.

8.5 Labour inspectorates should be ensured a role to cover these employment forms in their remit according to national practices and their inspectors provided with appropriate resources, competencies and training to ensure their effectiveness. The development of partnerships with trade unions, consumer or other representative associations could be helpful in addressing public concerns and seeking redress.

9. Employment status

9.1 New forms of employment affect a wide and heterogeneous range of occupations, spanning work that was previously in the informal economy, freelance work and work normally done by direct employees. Its introduction may create situations where identical tasks are performed in identical settings by workers with different statuses creating inequalities in relation to protections, rights and rates of pay.

⁽¹⁴⁾ See footnote 2.

⁽¹⁵⁾ Public hearing on 'The changing nature of employment relationships, the sharing economy, zero-hours contracts and the living wage', EESC, 31 March 2016.

9.2 The introduction of new intermediaries into the employment relationship has in some cases introduced a lack of transparency into relationships between the parties, hampering individual negotiation of the terms of employment and restricting workers' access to collective bargaining.

9.3 Questions are raised about which party should be regarded as the employer and how self-employment should be defined, including the legal definition and the system of penalties for illegal provision of labour and more serious forms of exploitation. Several different employment models exist on online platforms, including examples of platforms that switched to offering employee status to their workers in the interests of improving quality and reducing turnover⁽¹⁶⁾. Employees' status provides a gateway to other employment rights. Where workers are regarded as self-employed, their right to associate freely may be in question if their association could be regarded as forming a cartel, putting them in conflict with EU rules on anti-competitive practices. This needs to be addressed, especially in situations where ostensibly self-employed workers lack autonomy in defining their tasks and rates of pay.

9.4 The EESC calls for an investigation into the employment status of crowd workers and other new forms of employment relationships, taking into account their ability to negotiate terms, the form of payment (and who determines it) and the ownership of intellectual property produced. The investigation should aim to give guidance for Member States to clarify, according to their national practices, the tax, social insurance and employment status of workers and the obligations of these platforms in relation to working hours, pay, holidays, pensions, maternity rights, employer-paid health insurance and other employment rights.

10. Fundamental and workers' rights

10.1 There is a need for clarification of the rights of crowd workers and other workers in precarious and variable employment relationships in relation to a range of issues, including:

- working hours,
- collective bargaining,
- freedom of association,
- information and consultation,
- adapting skills,
- rest breaks,
- right to social protection through insurance and benefits,
- right to challenge unfair management decisions/user ratings/de facto unfair dismissal,
- right to refuse work offered at short notice without penalty,
- fair wages, and
- the right to payment for work completed.

10.2 The European Commission, the OECD and the ILO should work together with the social partners to develop appropriate provisions on decent working conditions and protections for online workers and workers under other new relationships. The EESC believes that developing an EU-level approach would be beneficial whilst noting that most actions will need to be carried out at national, sectoral or workplace level.

⁽¹⁶⁾ <http://www.nytimes.com/2015/12/11/business/a-middle-ground-between-contract-worker-and-employee.html>

10.3 Trade unions and associations of self-employed people have recently begun to come together to make recommendations for better solutions and coverage of social protection and benefits.

11. Maintaining a living wage

11.1 New forms of employment relationship are not restricted to low skilled manual or service jobs. Zero hours and other forms of 'on demand' working are spreading to higher paid and high-skilled occupations, including lecturers, airline pilots, and health and other public service workers, running the risk of eroding income potential and employment security.

11.2 The ability for much ICT and media-based work and services to be produced anywhere in the world creates further unequal competition for businesses and workers as such work is increasingly outsourced to low-wage economies driving down collectively bargained rates.

11.3 Research ⁽¹⁷⁾ has shown that digitalisation is polarising employment between the highly skilled well-paid and low-skilled low-paid, and that it is the middle-income moderately skilled bracket of workers in banking, insurance and administration who are the victims in an increasingly unequal labour market. Many are forced to take several jobs to achieve a living wage. However, some of these independent workers are highly qualified and experienced professionals who are well aware of their market position, know what they are worth and wish to genuinely carry on business on their own account, or are looking to their independent work to diversify their income stream, provide a back-up in case they lose their main source of income, make money from a passion and explore new career and business opportunities; both realities exist, and necessary rights and protections for all must be ensured.

11.4 Some new forms of employment have been driven by a desire to avoid the costs and obligations of more standard forms of employment. There is a risk that without effective rights and protections, monitoring and enforcement, many new forms of employment relationship will result in a race to the bottom of pay and conditions, and fuel widening income inequalities, reduce disposable income and suppress demand and potential for economic growth across the EU and lead to further long term macroeconomic challenges. The ability of such workers to determine their levels of pay and conditions through collective agreements is vital to maintaining a living wage.

11.5 Payment in new forms of employment is often based on completing specific tasks rather than hourly rates. The principle of fair remuneration should be maintained in all these circumstances and consideration given to all relevant aspects of remuneration such as the quality of work produced and compensating working time ⁽¹⁸⁾.

11.6 As family support and welfare systems vary across the EU, it is important to assess the impact of new forms of employment on the financing of family support policies, recognising that a single living wage may not be sufficient to sustain a family with children.

11.7 Wage-related issues cannot be seen in isolation from the problematic interface between wages and tax/social protection and benefit systems in less clearly defined employment relationships. Again, clarity about who the employer is, and the status of the worker are crucial.

⁽¹⁷⁾ http://www.liberation.fr/debats/2015/09/03/daniel-cohen-il-faut-une-societe-dans-laquelle-perdre-son-emploi-deviene-un-non-evenement_1375142

⁽¹⁸⁾ Travel time is considered working time, see Tyco, judgment of the Court, 10 September 2015.

12. Social protection

12.1 The EESC recognises the diversity of systems across Member States, and believes research is required into developing social welfare models adapted to cover more flexible labour markets and ensure a sustainable and adequate income to guarantee a decent existence. This should be given consideration in the development of the EU Pillar of Social Rights. We welcome the fact that the EESC is looking at this issue in a separate opinion.

12.2 As labour markets become more fluid, with a growing proportion of workers not knowing in advance when or where they will work, there are growing incompatibilities with national social protection systems which are based on the assumption that clear distinctions can be drawn between the statuses of being 'employed' and 'unemployed'. Such incompatibilities benefit neither businesses nor workers.

12.3 A growing share of the workforce may not be contributing to, or benefiting from, established social security systems such as unemployment, health and pension benefits or insurance. This is already the subject of debate between the social partners and governments in some Member States where the social partners are key players, but needs to be extended across the EU, and involving local authorities, other civil society players, associations and providers, with a view to defining viable and sustainable policy measures and legislation and complementary measures that ensure participation in appropriate levels of social protection for the entire workforce — including the self-employed, crowd workers and workers in the sharing economy.

12.4 The EESC recognises that there are substantial differences in the provision of welfare systems across Member States. Whilst there is a clear need to assess the viability of the welfare systems to face the challenges induced by new developments in economy and labour markets, the EESC believes it is important to safeguard revenue, and improve the overall quality, reliability, accessibility and effectiveness of tax and social welfare regimes across the EU, which in many Member States currently depend on high rates of standard employment and their related contributions. Such a loss of effectiveness would threaten the fabric of the European social model and social market economy, which is built on strong public engagement in the financing and provision of services of general interest and effective social security nets.

12.5 Tax and social protection systems need to be carefully examined to ensure appropriate levels of taxation and social contributions for all forms of income, whether generated in conventionally organised sectors or in the sharing/platform economy. The EESC believes that the role of these platforms could be clarified by provisions and legislation where required which define protection for both the employed and the self-employed, including them in the social protection system in terms of both regulation and contributions. The EU should encourage and coordinate reforms at Member State level, based on best practice.

13. Ensuring EU benefits from new developments

13.1 Online platforms are an innovation which is already an economic reality in Europe. However, at present, high proportions are based outside the EU taking significant cuts from each transaction within the EU, sometimes amounting to 25 % of the value, most of which is off-shored. They may pay little or no tax or contribution to education, infrastructure or public services in the localities where they operate in Europe. Where workers are not genuinely self-employed, there can be discrepancies in payments of tax, pensions or other social protection systems. There is a need for assessment of their impact on — and contribution to — creating sustainable jobs and growth within the EU.

13.2 The European Commission should consider ways in which the development of European platforms can be encouraged in such a way that the value created remains in local economies, drawing on Europe's rich tradition of mutuality and cooperation in labour market coordination, often carried out at community level and with the active cooperation of trade unions and local employers. It would be important to consider measures that would help enterprises to create sustainable quality jobs by providing support beyond the initial 'start-up' phase to the expansion 'move out' stage where many new enterprises currently lack backing.

Brussels, 25 May 2016.

The President
of the European Economic and Social Committee
Georges DASSIS
