CECILIA WESTERLUND

PLATFORM WORK IN THE NORDIC COUNTRIES

A labour law investigation on behalf of the Nordic Transport Workers' Federation into the regulation of working conditions for platform workers and the path to collective bargaining solutions

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FOREWORD

The number of home deliveries and work facilitated via different apps has increased exponentially in recent years, and the global coronavirus pandemic has only further accelerated this trend. A growing number of people now have their work assignments coordinated via apps. These platform workers have no fixed workplace and often work alone on short-term employment arrangements. In addition, many platform companies do not consider themselves to be employers and force takeaway couriers, for example, to work as self-employed workers. Including platform workers in the Nordic model, where collective bargaining agreements play a key role in regulating working conditions, is a challenge.

The Nordic Transport Workers' Federation, NTF, is a federation of 41 different trade unions for transport workers in Finland, Norway, Sweden, Iceland and Denmark with the Faroe Islands. In total, we represent 340,000 members—transport workers in seven different occupational categories.

We wanted to investigate the prevailing legal situation in the Nordic region to better understand platform work and the challenges it poses. We also wanted to gather information on and learn more about the different strategies our member organisations employ with respect to platform work.

I would like to thank Cecilia Westerlund for her outstanding work on this report. Cecilia met with several of our member organisations and collected a huge amount of important information which we hope will help those of our members who work with platforms going forwards. I would also like to thank everyone who helped with this report by providing interviews, and big thanks should go to Christer Norfall, Sirin Çelik, Hans Christian Graversen and Terje Samuelsen for their feedback and valuable comments.

Anu Koljonen, General Secretary
Nordic Transport Workers' Federation, NTF

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FROM THE AUTHOR

This report was written by me, Cecilia Westerlund, a researcher for the Nordic Transport Workers' Federation, NTF. My job was to spend six month investigating platform work in the Nordic region. I am grateful to have had the opportunity to be involved in researching future strategies for giving platform workers a seat at the table in the Nordic model. Aside from interviews with member unions, other trade unions, confederations, international federations, academics, public authorities and experts have also been involved in this project. I hold a Master's in Labour Law/HR from Lund University and my master's thesis was titled *Is there space for gig work in the Swedish model?* (original title: Har gig-arbete en plats i den svenska modellen?). This thesis comprised a labour law analysis of how platform work is regulated in Sweden, and looked beyond Sweden's borders to its Nordic neighbours.

With the rising prevalence of platform work, these new business models are challenging prevailing norms, regulations and boundaries. Studying the challenges associated with platform work, it becomes clear that these problems spill over into several different systems where different stakeholders and authorities should work together to reach solutions. The problem is a global one, meaning that a Nordic collaboration is an important piece of the puzzle. The challenge with including platform workers in collective agreements is based on the ambiguity over who is the employer and who is the employee in the platform work business model. The business model of platform companies is built on a third-party model where the platform acts as an intermediary between the customer and the worker. This is different from traditional dualistic employment that Nordic law takes as its basis. Having no clear employer means there is also no clear counterparty to negotiate with, which complicates the situation. Even at those platform companies where there is a great deal to indicate that an employment relationship does exist, companies are refusing to acknowledge their liability as employers, claiming that they are simply job facilitators for self-employed persons.

There is no standard definition of an employee, either at an EU level or at a national level within the Nordic countries, and instead different criteria apply to different legal areas. This means that a person may be an employee with respect to labour law, but self-employed with respect to tax law.

The definition that is applied has an impact on the employee's rights and the company's duties. It is not up to the companies themselves to decide how they should be classified, and ultimately it is up to the courts to make this assessment. If a company is an employer in a legal sense, then they also have a duty to observe laws and CBAs. This report contains a summary of the legal situation in the Nordic region, as well as an in-depth analysis of the extent to which the major platform companies are performing different functions of an employer. A model of analysis for employer functions has been applied to the business models of platform giants in order to demonstrate this. The project focuses primarily on the business model that is commonly known as *on-demand,* which involves more structured work in traditional industries. The report also analyses the extent to which companies (Wolt, Foodora, Uber etc.) satisfy the criteria for being an employer according to the EU Commission's latest proposals for directives.

Many trade unions across the Nordic region are actively working on these, and there are already a number of CBAs in place which include platform workers. As part of this study, I interviewed different unions in the Nordic region to identify their strategies. Some of the most important points for achieving CBAs for this group include unions doing the legwork, people taking action, and realising that platform work is nothing new: in many cases, platform work is just like any other type of work, with the only difference being that it is coordinated via an app. If we continue to work collectively and to help one another across international borders, there is a lot that we can learn from one another.

Cecilia Westerlund, Researcher
Nordic Transport Workers' Federation, NTF

1 Introduction

1.1 Background

Platform work is becoming ever more prevalent. According to the EU Commission, there are currently 28 million people in the EU working via digital labour platforms, a number that is expected to increase to 43 million by 2025.[1] In recent years, discussions have been focused on the extent to which jobs awarded via an app should be viewed the same as traditional work and, if this is the case, who is the employer. The new platform companies claim that they are simply job facilitators and that they are opening up a world of opportunities where anyone can work anywhere. Words like "flexibility" appear frequently on their websites, and the work is never described as just work in this context. Instead, words like "gig" or "gig work" are used.[2] Platform companies claim that the persons they employ are self-employed persons or sole traders. All over Europe, however, it has been shown that in many cases these companies' attempts at self-classification do not line up with what their transactions look like in reality, that is, to what extent they perform employer functions in a legal sense. On the traditional Nordic labour market, a contractor is an independent individual who has the freedom to turn down job offers, work for different clients, and manage their own working hours. However, we might question the independence of platform work when workers are away from home and waiting for orders without being paid, with the risk of being deactivated if something goes wrong with the delivery. It is also the platform companies who design the rules for how platform workers should be working and who create the pricing system. Sveriges Television (SVT) spoke to 20 or so taxi drivers working in Stockholm via platform companies like Uber and Bolt.[3] They talk of tough working conditions and the difficulties of making ends meet despite working well in excess of 40 hours a week. Several of the drivers involved in the SVT report talk of having their accounts blocked because their customers did not show up. Sweden's Minister for Employment, Eva Nordmark, believes that platform companies should not be allowed to hide behind an app in order to compete with appalling wages and conditions.[4]

So what are the biggest challenges in regulating platform work and how should we address the issue going forwards? In this study, material has been collected on the best approaches to

achieving CBAs and thus improving working conditions for platform workers. Cooperating across international borders is an effective way for us to ensure that change can happen.

1.2 Aim and research question

This study aims to bring together specific tips and approaches that various trade unions in the Nordic region have applied in order to reach collective bargaining solutions for platform workers. The aim is to create a summary of what this work looks like across the Nordic region, and to analyse potential avenues for successfully organising platform workers. The aim is to strengthen the collaboration between the trade unions in the Nordic region. During this study, we mapped out the ways in which different unions in the Nordic region are tackling the issue and what their biggest challenges are.

Another aim is to investigate the business models which platform companies use in order to create clarity over who is an employer and therefore who has duties and responsibilities according to the law. Platform workers who are classified in a legal sense as employees have a right to employment protection, which is governed in law. The status of platform workers is also vital with respect to their right to be included in CBAs, which by extension affects their working conditions.

In order to fulfil the aim of the study, the following questions will be answered:

- Who is the employer and who is an employee at platform companies who facilitate traditional work in the transport sector?
- What are the biggest challenges in terms of organising platform workers?
- What approaches have been successful in organising platform workers in the Nordic region?

1.3 Method and materials

A legally dogmatic approach, that is, interpreting, systematising and analysing relevant laws, *de lege lata*, has been applied in order to collect relevant materials and analyse the legal situation underlying the issue.[5] Furthermore, reasoning concerning what the law should look like, *de lege ferenda*, is presented in the discussion section. The report has looked at traditional legal sources—laws, drafts of bills, doctrine, government studies, and customs around the Nordic region—in order to answer these questions. Currently, there is a prevailing lack of practical efforts to address the issue and as a result legal practice will not be analysed in depth, although some relevant cases will be looked at.

The report contains a comparative section where relevant differences between regulations on platform work in the Nordic countries are illustrated. The study highlights the biggest differences between legal systems in the Nordic region in relation to non-standardised work and analyses the most common business models. What is crucial to understand is that in reality the Nordic model consists of five separate systems with common characteristics. National laws affect not only platform companies' ability to operate, they also impact the trade unions' capacity to act in that country.

For the purposes of this study, it is relevant to examine the material that already exists in this area. In this report, I reference sources such as *The Future of Work: Opportunities and Challenges for the Nordic Models* (FoW), a study carried out on behalf of the Nordic Council of Ministers. FoW aims to investigate how the labour market might change in future. In this project, the Nordic Council of Ministers focused specifically on labour law challenges associated with unregulated work in the Nordic region. The problem with platform work is particularly highlighted in this project since it combines many different labour law challenges associated with non-traditional work.[6]

An Official Norwegian Report (NOU 2021) has produced proposals aimed at creating better and more predictable rights for persons in alternative forms of employment. This was done in order to clarify who bears responsibility and to make the rules easier to understand and apply.[7] NOU:2021 analyses applicable laws, and the report is hugely significant for this study and for development in Norway. The overarching goal is that the system underlying the world of work should facilitate a high number of permanent jobs and an organised world of work that is anchored in CBAs, alongside good conditions for creating value within businesses. This study will also consider the commentary on this report prepared by the Norwegian union Fellesforbundet.

Sweden, Denmark and Finland are part of the EU and so it is vital that we take into consideration EU law and acknowledge its impact. EU regulations are also highly relevant for Iceland and Norway since these two countries are part of the European Economic Area, EEA. The aim of the EEA is to expand the EU's internal market to also include EFTA countries[8] that have chosen not to join the EU.[9] In the study, laws and regulations have been interpreted at a national level alongside application of relevant international regulations.

Within the Nordic model, the aim of a piece of legislation is important for its area of

application.[10] Since there is a lack of regulations addressing platform work specifically, existing laws must be applied to new circumstances and adapted to ways of working. It is therefore expedient to apply a teleological method of interpretation of the law, that is, giving weight to the underlying aim of a law when interpreting said law.[11] Such a goal-oriented approach can help to avoid incorrect interpretations, and thus the law is interpreted according to how its rules are meant to be applied, instead of directly interpreting the specific words used.[12] In order to better understand the application of the laws and to establish a solid foundation for a legal discussion, I have reviewed the existing doctrine as part of this study. Niklas Selberg's doctoral thesis, *The Employer as a Concept and Responsibility under Labour Law in Complex Labour Organisations*, (original title: Arbetsgivarbegreppet och arbetsrättsligt ansvar i komplexa arbetsorganisationer) is hugely relevant and is also considered in the report. Adlercreutz and Mulder (2013), Lunning and Teijer (2016), and Schmidt (1994) are a few other examples of legal sources that are important for this study.

Whilst the report does contain materials which have been previously produced by management and labour, it is important to also look beyond the borders of the Nordic region as platform work is a global phenomenon. The report considers studies and opinions from both the ILO and the EU Commission. There has long been a declared desire within the EU to strengthen working conditions for platform work. The EU Commission, which has drawn up its own agenda for platform work, published a proposal for a directive in December 2021 aimed at clarifying which platforms should be considered employers and to what extent workers can be considered employees.[13] This proposal includes a list of criteria which a company must fulfil in order to be regarded as an employer. The report analyses the business models of a number of the biggest platform giants against these new criteria. This is a key part of the report since it provides future perspectives on which companies will presumably be required to assume employer's liability if the proposal becomes reality. The proposed directive is intended to establish fair conditions on a competitive market, and to improve working conditions for platform workers. The ILO report *Global Commission on the Future of Work* has also been taken into account.[14] It is worth reviewing the material collected and the research produced by the EU, such as the Eurofund report *Employment and working conditions of selected types of platform work*.

In this study, I have interviewed primarily NTF member unions, but I have also spoken to other unions, federations, academics and relevant public authorities. These interviews were conducted as traditional qualitative interviews with the interview questions being semi-structured in nature. This means that talking points/questions were prepared in advance, but that there was also room for follow-up questions. This gives the interviewee the opportunity to bring up other relevant areas and spark spontaneous discussions during the meeting, with the aim of creating space for more in-depth conversations on those areas that are particularly interesting according to the aim of the study. During the course of the study, I contacted all 41 NTF member unions who were given the opportunity to contribute to the study. Contact details for the different unions were obtained by the Federation's Secretary

General, Anu Koljonen, and by my colleague, Christer Norfall, who was also involved in the majority of interviews. The unions I met with are those who responded to e-mail enquiries and who agreed to meet. The aim was to collect material on the different unions' approaches to achieving collective bargaining solutions. Questions were also asked on the extent to which platform work is prevalent, whether any CBAs exist, and what challenges the different unions see. Interviewees had the opportunity to express their opinions on how much the legal framework needs to change at a national level, and to offer their view on transnational regulation in this area—what is their stance on the proposal for a directive published by the EU Commission in December 2021, for example. We also discussed strategies, both internal and external, and the different unions' observations on the future of the issue.

Conducting a more in-depth analysis of existing challenges and how management and labour can best achieve collective bargaining solutions for platform workers requires knowledge of the structures and business models used by the platform companies. Information on the business models of these platform companies was collected from their respective websites. In a previous publication, *Is there space for gig work in the Swedish model?*, I applied Prassl and Risak's model of analysis to active platform companies.[15] This labour law analysis contributed to the field by representing the first occasion, on which the business models of these platform giants had been analysed using this model of analysis. The aim was to see to what extent these companies perform employer functions on account of their structure and make-up, and thus to what degree they should be considered employers. This was a relevant method to apply as there exists a grey zone surrounding who should be considered an employer and who an employee in the context of non-standardised work. Using this method, I was subsequently able to achieve a more in-depth analysis of the extent to which these specific companies perform the employer functions described by Prassl and Risak. Since it is unclear, as the situation stands today, which platform companies should be regarded as employers, the model is relevant for this study as well.

In the study, I focus primarily on clarifying what can be subsumed under the terms 'employee' and 'employer' in civil law. However, it is important to consider what definitions prevail in other areas of law in order to understand what rights platform workers have, and therefore where any shortcomings exist in the national systems. I used first-hand sources such as interview material to answer my research questions—primarily material from interviews with member unions, but also material from other stakeholders who have offered up an opinion on the prevailing legal situation and how much scope they have to manoeuvre. Pre-existing material on the subject was also used to examine the legal situation.

1.4 Limitations

The aim of the study is above all to examine what opportunities exist for organising platform work in the Nordic region, and to use the report as a way of bringing together those strategies that have had success in organising platform work. Therefore, this report does not contain any in-depth analysis of the legal situation in each country. Nevertheless, a brief review of the legal landscape in the Nordic region is vital to the aim

of the report and is presented in Chapter Two. Since this is a hugely topical subject, and the regulatory process is still on-going, this paper is limited to 15 January 2022, meaning that changes that occur after this will not be taken into account in this work.

The study is limited to focusing on the type of platform work that is usually called "on-demand work". It is, however, important to acknowledge that platform work exists in multiple different forms and is not a fixed, standardised term. Even within the category of *on-demand*,[16] there exist different business models and different types of service production.[17] The study focuses first and foremost on platform work within transport.

An important part of the project revolves around investigating what is subsumed under the terms 'employee' and 'employer' in the different countries. As the situation stands, definitions differ not only from one Nordic country to the next, but also across different areas of the law within the same country. Whilst it may also be relevant to examine to what extent these platform workers should be considered employees from a taxation or national insurance perspective, I have chosen to focus on civil law. The concept of the employee is important in tax law since its application has an impact on social security because it governs unemployment benefits, sick pay and national insurance, amongst others. According to an analysis by the Swedish Tax Agency (Skatteverket), there is a huge number tax errors associated with the sharing economy. Audits that have been concluded so far on behalf of the Swedish Tax Agency indicate that it is common for income from this type of work to go unreported. The reasons for this include the fact that it is hard for stakeholders to understand the system or to use it correctly. The same situation has been identified in the other Nordic countries as well. Verifying and calculating taxes is equally a challenge.[18] It would also be interesting to investigate, in another project, to what extent occupational health and safety law is applicable to platform workers in the different countries. Currently, however, there exists a grey zone and this report will not focus on examining the applicable laws and regulations in each country in detail, although the material I have collected on this issue will be analysed. Instead, this report will concentrate on labour law and the terms 'employee' and 'employer' within civil law since this is the area where CBAs have jurisdiction.

It would be interesting to investigate, in a more extensive study, the algorithms used by platform companies in more detail since the way in which algorithms are handled can involve a power imbalance, discrimination, control and surveillance. As the situation currently stands, there is a lack of insight into decision-making processes on digital platforms, which infers an increased risk of invasions of privacy and health-related issues for workers. Any time work is assigned based on algorithms that are designed to streamline a business and make it profitable, this comes at the expense of workers' health. It is therefore incredibly important that companies can show how jobs are allocated between platform workers, and that they demonstrate transparency with respect to how they are working to actively stop distorted data being reproduced. The scope of this study does not permit an investigation into what these algorithms are based on and how work is allocated in practice. Currently, platform companies have different guidelines for

programming their technical algorithms. What is certain is that those groups in society who are already significantly vulnerable run a greater risk of being discriminated against when algorithms work according to a scoring system which can lead to the creation of distorted data sets based on gender, sexual orientation or ethnic background, for example.[19] The EU Commission's proposal for a directive sets out requirements for how platform companies handle algorithms, which may be a step in the right direction.[20]

1.5 Definitions

There is no one uniform concept of platform work. In this report, the term refers to work that is facilitated via a digital platform or app. In the study, I have chosen to focus on the type of platform work that is usually referred to as *on-demand work* which involves more organised forms of work in traditional sectors, such as taxis and goods deliveries.

The term *platform worker* as used in the report refers to a person who performs work for a digital platform or app, regardless of the person's legal status. Swedish labour law is based on a binary system where a worker is either an employee or a self-employed person (or sole trader) for an employer or client. Since the aim of this report is to investigate the actual legal status, in a legal landscape that can otherwise be described as unclear, 'platform worker' should be seen as a neutral term.

I have chosen not to use the terms *gig-worker* or *gig-work* in this report even though these are common designations. This is a conscious decision since *platform workers* is a broader term that also includes those workers who work via an app but who do not perform work that is characterised as "gig-work". In many instances, platform work can be said to be ordinary work where there is a long-term need for a workforce that is scheduled, and which is continuously carried out by one and the same worker. In such cases, these jobs can often be equated to any other work, aside from the fact that the work is facilitated via an app or digital platform.

The report draws a distinction between the terms *platform companies* and *platforms*. Platform companies means the legal entities that engage platform workers as their workforce. Platform refers to the app or digital platform, through which platform workers carry out their work.

2 Legal points of departure

2.1 Characteristics of the Nordic model

2.1.1 Particularities

The *Nordic model* often means the collective agreement approach that is prevalent in the Nordic region, where CBAs perform a key function, whilst the state refrains from passing detailed labour legislation.[21] This means that these agreements are often the most important regulatory tool when it comes to governing working conditions such as wages and working hours. Membership of trade unions can be described as generally high across all Nordic countries and large swathes of the labour market are covered by CBAs at an industry level, albeit with certain differences between countries. CBAs establish the framework for the dialogue between management and labour, at both an industry and a company level. Management and labour in the Nordic region also collaborate with the state in a third-party collaboration on issues such as pay rises, income policies and social and financial policies in general.[22]

The Nordic countries of Sweden, Finland, Norway, Denmark, and Iceland are similar in a number of respects. However, to talk of "a model" is to over-simplify the matter as each country has its own separate legal system.[23] EU law has been shaping Nordic labour law systems considerably ever since the European Economic Area (EEA) was established in 1994. Demark joined the EU in 1973, with Sweden and Finland becoming members in 1995. Iceland and Norway continue to be part of the EEA but are not members of the EU.[24] The aim of the EEA is to expand the EU's internal market to also include EFTA countries [25] that do not want to join the EU.[26] One of the most heavily discussed issues in the Nordic countries is the role of the CBA on the labour market.[27] At time of writing, several labour law regulations which will have a considerable impact on the Nordic model are in the process of being drawn up. The European Commission, headed up by Ursula von der Leyen, recently published a new proposal regarding the introduction of minimum wages in Member States.[28] According to the Commission, the aim of a common EU minimum wage regulation is to maintain employment opportunities whilst at the same time protecting persons on low income and reducing poverty. The European Parliament and the Council of the European Union have now looked at the

EU Commission's proposal and proposed their own amendments. One argument that has been common to both Sweden and Denmark is that wages are set by means of negotiations between management and labour and therefore should not be regulated in legislation. Moreover, both countries have argued that regulating minimum wages is outside the jurisdiction of EU law even if it currently appears that Member States will give the EU this authority.[29]

The Nordic Model is distinguished by the position of CBAs on the labour market. In the Nordic region, therefore, CBAs constitute a legal source that can be compared with legislation, and what is common to all Nordic countries is that:

1. CBAs are binding for both parties, that is, a CBA binds not only the concluding parties, but also those persons who are covered by the agreement:
2. CBAs have a normative effect, and conditions that are worse than those contained in the agreement are not permitted. That is to say, it is possible for the parties to agree on better conditions than those contained in law if the law permits such an exemption. For example, an employer may not offer wages that are lower than the minimum wage in the CBA, annual leave that is worse than what is contained in the agreement, or anything else that objectively speaking can be considered worse for the employee.[30]

A fundamental aim of labour law is to counteract asymmetrical power dynamics between those who buy labour and those who sell it. Nordic labour law can therefore be described as built on the realisation that there is a need for legal protection for individual workers and for legal norms which limit freedom of contract and the powers of management. Thus, creating a balance of interests between employers and the individual workers is fundamental to the Nordic model. In the Nordic model, this is achieved through a strong cooperation between management and labour which requires trust in order to accomplish something which is in the general public's interest and in order to protect general values of law.[31]

2.1.2 Fundamental differences

Although labour law regulations are similar across the Nordic region, there do also exist significant differences. Differences can be found in both the legal framework underlying the basic structures and in regulations or legal solutions to specific issues.[32] Unlike in other Nordic countries, Danish law lacks any formal requirements concerning CBAs. Instead, it contains rules on what the CBA should contain in the main agreements and through legal practice. The role of the CBA, for example, differs between the countries, with its dominance being less pronounced in Finland, Norway and Iceland than in Sweden and Denmark. In Finland, Norway and Iceland, the legislation has been designed in such a way that the ability to make exemptions through CBAs is more limited than it is in Denmark and Sweden where working conditions are primarily enshrined in CBAs.[33]

Whilst CBAs are considered to be the foremost regulatory tool in Sweden and Denmark, their role is not quite as dominant. Finland, Norway and Iceland have statutory mechanisms which extend the jurisdiction of the CBA further. Where a CBA is extended to such an extent that an entire sector or industry, for example, may be subject to the agreement without being a party

to it, this tends to be referred to as a *declaration of universal applicability* of a CBA or *erga omnes*. *Erga omnes* means CBAs that contain minimum regulations or conditions which apply to persons in workplaces that are not themselves party to the agreement. All parties can thus be bound to the covenant, whether or not an agreement has been concluded.[34] These mechanisms are all aimed at ensuring that minimum working conditions are satisfied for employees carrying out similar activities within the same sector, regardless of whether the worker or employer is a member of the organisation that is bound by the CBA.

In Finland, the ability to declare CBAs universally applicable has been enshrined in the law since 1970 and today these apply to all industries on the labour market.[35] A separate authority determines which CBAs should be declared universally applicable based on whether the agreement can be said to be national and representative. Norway, too, has statutory mechanisms which extend the jurisdiction of the CBA to a certain extent. In Norway, a declaration of the universal applicability (in Norwegian: *allmenngjørings-forskrifter*) of conditions of pay for public sector workers can be issued by an independent organ with respect to provisions in a separate CBA. This mechanism can only be invoked if it has been documented that working conditions are worse for workers, thus Norway cannot be said to be even remotely subject to the legal rule of *erga omnes*. Declarations of the universal applicability (*allmenngjøringsforskrifter*) of CBAs in Norway exist in industries such as cleaning, dock workers and the energy sector. Swedish and Danish law lack corresponding mechanisms. Nevertheless, CBAs may extend beyond the scope of CBAs in these countries as well, impacting employment conditions and individual employment contracts indirectly.[36]

Whilst the legislation in Denmark does complement CBAs in certain aspects, there is no general legal regulation relating to minimum wage, employment protection, normal working hours or overtime compensation, for example. Instead, these issues are governed in CBAs. Equally, EU directives tend to be enacted through CBAs, supplemented by minimum standards in law. In Denmark, certain CBAs—within retail, for example—require that union membership in a company must be at least 50 per cent in order for the union to conclude agreements with a member of the employer organisation.[37]

Danish law is known for its *Flexicurity*.[38] *Flexicurity* is comprised of three elements: (1) the employer has greater flexibility to establish an employment relationship and the employee has a greater ability to change their job; (2) a generous state-financed unemployment fund which ensures that employees have a basic income during periods of unemployment; and (3) an active labour market policy which works to promote and finance skills and education in order to meet the changing needs of the market.[39]

In Sweden, employment protection is set to be reformed according to the so-called 'January Agreement' that was concluded between the Swedish government, the Swedish Centre Party (Centerpartiet) and the Swedish Liberals (Liberalerna) in 2021. This reform includes increasing employers' abilities to adapt their skills according to the company's needs, lowering the costs associated with dismissals, and expanding the ability to make exemptions from the last in,

first out scheme. Employers get more predictability in terms of different employment conditions such as counting working hours and forms of employment, whilst the phrase *general fixed period* (in Swedish: allmän visstid) will be replaced with *special fixed period* (särskild visstid) where the employment is to be transitioned to a permanent position more quickly. A new regulation will be introduced on renegotiating workers' working hours (so-called short-time working, or 'hyvling' in Swedish), together with new public aid measures for companies.[40]

The Swedish legislation has been designed to allow space for CBA regulations in that a great deal of the legislation is *semi-dispositive*. This means that provisions in the law may be complemented or waived entirely by a CBA in the event that the CBA is signed at a central level.[41] Thus, management and labour can be said to have significant influence over even statutory regulations on the Swedish labour market, at least at the central level. The CBA is the most important regulatory instrument in Swedish labour law since many important working conditions are not governed in legislative acts. For example, regulations on minimum wage, overtime compensation, extra pay for unsociable working hours, collective pension solutions, and collective insurance solutions etc. are negotiated between management and labour.[42]

2.2 The concepts of the employee and the employer

In order to tackle the labour law issue of platform workers' working conditions, and to analyse what opportunities there are for signing CBAs on their behalf, it is crucial that we investigate the concepts of the employee and the employer in the Nordic countries. In this study, it has come to light that the definition of an employee does not just differ from country to country but can also differ from one area of law to the next within one and the same country. The classification of a worker within the national insurance system, for example, does not in any way align with the classification in civil law in either Sweden, Denmark or Norway. This is problematic since the Nordic social welfare systems are based on categorising workers as either self-employed/sole traders or employees. As a result those workers who are classified as employees under civil law, but as self-employed under national insurance law, fall through the cracks. Norway, however, can be said to apply an intermediate category—freelancer—in individual cases. These freelancers are said to enjoy employment conditions analogously to employees, but whilst retaining the same freedom as a self-employed person. The legal social welfare framework in Norway is still largely based on the binary division between employees and the self-employed.[43]

Norway is the country with the lowest number of self-employed contractors in the EU, followed closely by Denmark and Sweden.[44] This phenomenon is far more common in Southern Europe where it is seen as a solution to unemployment. Across all the countries in the Nordic region, it is a holistic assessment that is used to determine to what extent there exists an employment relationship. This allows for a more flexible, inclusive and adaptable application of the concept. The regulatory technique continues to differ quite a bit across the Nordic countries. In Sweden, Denmark, Norway and Iceland, the employment relationship is defined by the parties' definition.[45] Here, 'employee' and 'employer' are central

concepts. There are no general or uniform statutory definitions, however. Instead, the concepts are defined within different legal frameworks, and there exist variations in the practices of formulation, interpretation and classification. Remuneration or wages, for example, is an explicit requirement in some contexts, but not in others. There is furthermore variation in whether both concepts are defined and whether there exist any explicit definitions at all. In Finland, the employment relationship is a central legal regulation and is defined in the law on employment contracts. This definition is also significant for other labour law regulation, e.g. that an employment relationship is required in order to apply other laws according to the definition. The notion of a uniform central concept can therefore be described as firmly anchored in Finnish law.[46]

Whilst the criteria do vary somewhat between the different Nordic countries, it is worth pointing out a primary focus in the assessment that is common to all:

- Employment is when there exists an employment relationship regarding personal work that is performed for the sake of another party, whereby this work is subject to monitoring and supervision.

Traditionally, a further key characteristic is a contractual basis. In principle, therefore, the core of these central concepts is common to all the Nordic countries and is oftentimes based on legal practice and doctrine. What separates the different countries is the ability to be classified as an employee without these characteristics being clearly present. Denmark and Norway list

a huge number of indicators, whilst at the same time lacking explicit requirements regarding core criteria, which may lead to greater flexibility in an assessment—especially compared to Finland. The Swedish and Norwegian concepts both explicitly recognise the need to adapt to changes on the labour market. Both Denmark and Norway apply purposeful approaches. In Iceland, the legal practice is somewhat inconsequential and although there does not exist any clear formulation stating that the concept should be adapted to changes, there does exist a well-formulated method of interpretation that is applied in the country. The Nordic model is built on a binary system where the person performing the work is categorised as either an employee or as self-employed. However, Denmark, Norway and Finland have in varying ways approached attempts at defining a third category, even if such a form of employment does not currently exist, legally speaking.[47] As the situation stands, there is nothing to indicate that an intermediate category would be relevant in Sweden.[48]

2.3 Legal protection for non-standardised work

Platform workers talk of their lack of good working conditions and the insecurity associated with not knowing whether they will be able to pay their rent next month since they don't know if they will get work from one day to the next. Selberg refers to De Stefano (2016) when he asserts that this form of work is not new on the labour market, even if it does challenge current boundaries, regulations and norms. Specifically, platform work could be compared to work carried out by so-called "inhyseshjonen", day labourers who lived in Sweden over a hundred years ago.[49] Day labourers would come to the place of work in the mornings and ask for work, and the employer would pick out the workers he needed. Today, just like day labourers, platform workers often find themselves hanging around streets and town squares waiting for jobs without receiving any pay. And without knowing whether they will get any work the following day. There is also an equality aspect that needs to be taken into account, such as the lack of facilities, for example—and access to a proper toilet may be more necessary for women than for men.[50]

Many platform workers feel that trying to change these inadequate working conditions is a tough ask and have a negative view of the way they are treated on the labour market. Gig-lab Sverige writes that platform workers not only feel disadvantaged by platform companies, but they have also fallen through the cracks with respect to public authorities, banks, the management/labour dynamic, and the welfare system as a whole.[51] In its report, Gig-lab describes the biggest challenges it has mapped out for platform workers: financial security, inadequate working conditions, safety, social status, job matching, power imbalance, and lack of learning. The financial insecurity is based in part on their uncertainty surrounding future income. This affects not only how platform workers plan to pay their rent and other recurring payments in the short term, but also their long-term planning and income security in the form of pensions and sick pay, for example. It is also common for platform workers to not get paid for an order that is cancelled by a customer who, for whatever reason, has not approved the job or has failed to turn up at the agreed location. A self-employed person, who should therefore be regarded as

an employee, can also experience difficulties in receiving unemployment benefits between assignments, which is due to the ambiguous form of work and the grey zone that exists here. One of the main causes of these obstacle is felt to be an outdated view of what constitutes a "real job". The authors of the Gig-lab report write that this outdated norm is the foundation, on which the tax system, national insurance system and welfare systems as a whole are built.[52]

An interview with the Swedish Tax Agency reveals that the extent to which self-employed platform workers are categorised as self-employed varies. The assessment differs from one case to the next and depends on how the platform workers describe themselves in their application for F-Class tax (corporation tax in Sweden).[53] Some bike couriers have had their applications rejected, according to the interviewee, with the reasoning being that their position is far too "organised" within the company's enterprise. The majority of platform workers do get approval for F-Class tax, but this assessment can change after the fact, depending on how the workers themselves describe their work on the application form.

In its project *The Future of Work: Opportunities and Challenges for the Nordic Models* (FoW), the Nordic Council of Ministers focuses on platform work and how the labour market might change in future. In the final project report, the authors write that all the Nordic countries have regulations which provide certain basic protections, including for the self-employed. Consequently, there exist certain basic protections for platform workers, too, regardless of their employment status. How far these protections extend, however, differs from country to country, leaving a great deal of uncertainty surrounding the scope and level of protection. These protections relate primarily to health and safety regulations, and not working hours or holiday pay. Only Denmark and Iceland have somewhat expanded their provisions on working hours; Denmark, for example, has certain standards with respect to self-employed persons. None of the Nordic countries extend the right to paid annual leave to contractors. A presumption of employment status in the new Danish Act on Annual Leave (Semesterlagen) offers clearer guidance on assessing workers with an ambiguous employment status and can widen the term employee to include several workers in the grey zone. The scope of protection is thus expanded to include persons carrying out non-standardised work.

In Norway, the rules for employing persons on a fixed-term basis are complicated, giving platform workers a degree of security since their employment contract instead has to define their level of employment. In summary, it seems as if these provisions provide better protections for workers with an ambiguous employment status in Denmark and Norway, compared to the other countries. However, the protections available for non-standardised work fall short in all the Nordic countries, as platform workers fall through the cracks in various different systems on account of their ambiguous employment status.

And whilst the right to paid annual leave is perceived to be based on agreements in most countries, it is only enforced by the public authorities in Finland.[54] The statutory framework for social security provides for a basic level of compensation in the event of unemployment, financed partly by the state, and partly by mandatory contributions

from management and labour. Finland also has supervisory authorities for civil law as well, and if the EU Directive is adopted, for example, these authorities will have greater powers to take action to ensure that the rules are followed.

National insurance legislation is more uniform in Norway, and more fragmented in Denmark and Iceland. Basic statutory benefits are supplemented with rights and insurance systems built on special pieces of legislation and CBAs. The role of CBAs varies from country to country and for the various different benefits.

All the Nordic countries have some basic sickness benefits, available to all workers regardless of employment status. Yet, in Sweden, Denmark, Finland and Norway, it is only employees who have a right to sick pay from their employer during the first period of illness. An incorrect classification can therefore hit individuals suffering from long-term illnesses hard. The qualification periods are also harder to fulfil for platform workers than for traditional employees, even if they are employees. This is due to the short, temporary employment that platform work frequently involves. Platform workers therefore run a high risk of not having any income protection in any of the Nordic countries in the event of a short-term illness. In Sweden, the consequences for platform workers are less serious since both employees and the self-employed are covered by benefits from the Swedish Social Insurance Agency (Försäkringskassan) after the first day of illness (qualifying period). The situation is similar in Finland where employees and the self-employed are eligible for benefits from the Social Insurance Institution (Kela), though only after nine days. The risks for platform workers are higher in Iceland. Even if employed, platform workers are presumed not to qualify for sick pay in Iceland and those benefits they can claim as self-employed do not offer much in the way of income protection. Since platform work is currently extremely uncommon in Iceland, the issue of sick pay for employed platform workers has not been investigated.

Statutory regulations on compensation for occupational injuries and insurance apply exclusively to employees in all countries except Sweden. Complementary systems in CBAs are normally reserved for employees. This increases the significance for platform workers of being classified as employees since platform workers (as self-employed persons) are less inclined to sign voluntary insurance agreements. At the same time, a high court in Sweden has previously deemed that a so-called self-employment company (in Swedish: egenanställningsföretag) does not have the same duties when it comes to the self-employed platform worker's working environment as "an ordinary employee" since this person is not an employee according to the Swedish Work Environment Act (Arbetsmiljölagen) even though this person is considered to be an employee according to civil law.[55] Whilst platform workers have less protection than both traditional workers and contractors in all countries when it comes to parental leave, according to the FoW investigation the risk of finding oneself outside the welfare system is the greatest in Denmark.[56]

Platform workers who are classified as self-employed miss out on the pension that is contained in CBAs in Sweden, Denmark and Norway. There does, however, exist a statutory system in the Nordic countries which guarantees leasehold

protection on properties upon retirement for everyone, including platform workers. Overall, therefore, regardless of their employment status, platform workers have fewer protections than persons in traditional work.

2.4 Legal framework for non-standardised work

2.4.1 Swedish law

In Swedish labour law, the term 'employer' refers to the worker's counterpart in the employment relationship. Prop. 1974:148, for example, states that:

> "the employer refers to the natural or legal person, with whom the employee has an employment relationship".[57]

Källström & Malmberg write about three fundamental questions that can be asked in order to create clarity over whether a person assigning work, or an agency (in Swedish: uppdragsgivare), should be considered an employer in borderline cases:

1. Is the person—natural or legal—who has made the agreement responsible for fulfilling the obligations that exist on the grounds of the employment agreement?
2. Whose actions is the natural or legal person responsible for?
3. What organisational restrictions exist in the employer's obligations under labour law?[58]

Swedish law stands out in that it has a Co-Determination in the Workplace Act (Medbestämmandelagen, MBL). This law is supposed to promote collective labour law by giving trade unions an opportunity to participate and greater influence for employees in the workplace. This is

ensured by the employer's obligation to inform and negotiate with the trade union organisations. Sec. 1 MBL states that the law:

> "is applicable to the relationship between the employer and the employee".[59]

The legal concept of the employee refers to the person who, in the legal sense, performs work according to an employment contract. Therefore, Swedish collective labour law, just as in its Scandinavian neighbours, is built on the relationship between the employer and the employee and their employment relationship.

The basic idea is that there should be no distinction made between the different areas of law, rather that the fundamental civil law concept contained in *Nytt Juridiskt Arkiv* (The New Legal Archive, NJA) 1949 p. 768, should determine who is a worker according to the Co-Determination in the Workplace Act (MBL).[60] What makes this primary civil law concept distinctive is that it

requires that a holistic assessment be undertaken, based on objective circumstances.[61] In Sweden, the definition of the civil law concept of an employee can be said to differ somewhat even within the same area of law, since the concept of an employee in the MBL is somewhat broader than the same concept in the Employment Protection Act (LAS). Sec. 1(2) MBL states:

> "the law considers an employee ('arbetstagare') to also be any such person who performs work for another and in doing so is not employed with this other person, but has a position of essentially the same type as an employee. "The person for whose benefit the work is performed shall in such case be considered the employer".

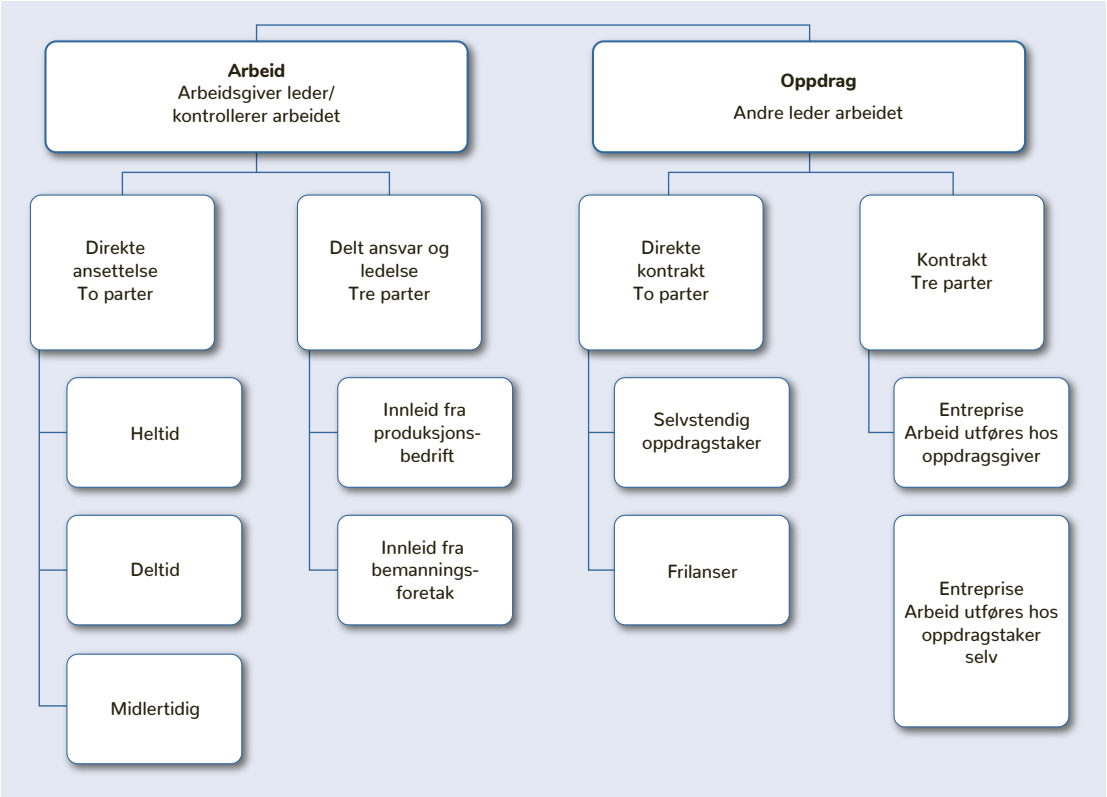
The concept of an employee in the MBL determines the jurisdiction of the CBA and thus infers that a self-employed person who has a "position of essentially the same type as an employee", also known as an *equal contractor (in Swedish: jämställd uppdragstagare)*, has a right to organise. Källström writes that the MBL is intended to have a particularly broad scope of application and must be applicable even to new forms of work, without otherwise being impacted by labour law regulations. A CBA is usually based on the general civil law concept of the employee, and thus has a narrower scope of application than that of the definition in the MBL. It is therefore necessary that CBAs concluded on behalf of an equal contractor be expanded to include a separate clause such that the person in question can be covered by the agreement.[62] This requires a separate provision in the CBA such that a platform worker who is self-employed, for example, can be considered an employee and be covered by the CBA.[63]

Thus, certain self-employed persons in Sweden are permitted to organise and sign CBAs. This is possible because the explicit exemptions for CBAs under competition law apply the same concept of the employee as is used in the MBL. The regulating of working conditions for employees according to the MBL is exempt from the scope of competition law according to Title 1, Sec. 2 Swedish Competition Act (Konkurrenslagen), which allows for self-employed persons classified as employees according to the MBL to organise. The organising of equal contractors thus does not breach competition law, contrary to the case in many other EU countries. However, it has not yet been made clear if this also applies to the coordination of pricing amongst self-employed persons, that is to say legal coordination amongst several different companies, or whether this may be in breach of competition law. It also has not been clarified to what extent this provision is compatible with competition rules in EU law.[64]

2.4.2 Norwegian law

Just like the rest of the Nordic region, Norway is built above all on a binary system where the person performing work is either a contractor or an employee. Within these two categories, the employee is often divided into five different sub-categories:

1. Permanent employment, full-time or part-time, in a two-party relationship (directly employed with the company);
2. Temporary employment in a two-party relationship (directly employed with the company);
3. Leasing employees from another company or recruitment agency, where employees are employed by a third party but are at the disposal of the client company;



Two different ways to classify work in Norway. From NOU 2021:1 (original Cappelli og Keller, 2013).[65]

4. Using independent contractors/freelancers. This includes purchasing services from (solo) self-employed persons or non-employed wage earners who receive remuneration;
5. Purchasing services from other companies (contract). The contractor is the employer and is responsible for managing the work. In some instances, the work may be performed solely at the company's premises, either partly or entirely.

In sub-categories 1–3, the worker is employed internally or externally, whilst in sub-categories 4–5 the person is a contractor.[65] (See image above.)

The terms *independent contractor*, *independent self-employed person* and *freelancer* are used interchangeably in the Norwegian literature. Independent contractors can be described as a collective name for all individuals who perform contract work and therefore fall outside the legal concept of an employee. Norway can also be said to apply an intermediate category—freelancer—in individual cases. These freelancers are said to enjoy employment conditions analogously to employees, but whilst retaining the same freedom as a self-employed person. The legal social welfare framework in Norway is still largely based on the binary division between employees and the self-employed.[66]

Norway's analytical group at the National Inter-Agency Analysis and Investigation Centre (NTAES) expressed their concern over the incorrect classification of sole traders in a situation report in 2020. According to the report, many of these "self-employed persons" were born overseas and are requested by the company to set up F-Class tax for the self-employed. In many instances, these workers do not have their own tools or work clothing, have no say over their own working day, and are required to assume the financial risk of not getting assignments themselves.[67] The tax authorities in Norway are currently investigating how many actual employees have been forced to categorise themselves as self-employed. In his book *Norway in black, white and grey* (2021; original title: Norge i svart, hvitt og grått), Hasås writes that one way of dealing with incorrect classifications would be for the Norwegian Tax Agency to treat these persons as employees instead of self-employed persons.[68]

An Official Norwegian Report (NOU 2021) has produced proposals aimed at creating better and more predictable rights for persons in alternative forms of employment, clarifying who bears the employer's responsibility, and making these rules easier to understand and apply. In line with the EU Commission's proposal for a directive, NOU:2021 proposes changes to Norwegian law that would make clear who is an employer and clarify the difference between the self-employed and employees. The overarching goal of the report is that the system underlying the world of work should facilitate a high number of permanent jobs and an organised world of work that is anchored in CBAs, alongside good conditions for creating value within businesses. The report proposes a raft of changes to the legislation in order to buck a negative trend in the world of work when it comes to working conditions, labour law and organisation. Employers have offered a divergent opinion on most of the issues which the committee has a majority for. However, it is possible that the minority's (employers') position may change in future through good and inclusive processes when following up on the committee's work.

In a letter regarding the report sent from Fellesforbundet in Norway to LO (Norway), Line Eldring writes that an incorrect classification of employees as self-employed is a serious social issue with serious consequences for those affected. Eldring believes that the problem is particularly great in the transport sector and amongst courier services and van drivers, although the problem is beginning to spill over into other professions. Employers incorrectly classify persons who, in reality, ought to be employees using a conscious strategy in order avoid giving these workers rights and to compete with companies offering the same type of service with good conditions. Fellesforbundet believes that there is plenty to suggest that these people are employees. In the letter, Foodora is given as an example of a company that has employed couriers and concluded a CBA, but which has to compete against a company like Wolt. Wolt uses solely self-employed persons, or sole traders, despite the fact that the services they perform are practically identical to Foodora's. Eldring continues that this in itself violates the law, but that a clarification is nevertheless desirable since changes must be made immediately. Fellesforbundet is therefore fully behind the majority's proposals for clarification of provisions and more correct classifications of who should be deemed an employee and

who self-employed. They also view the fact that a prerequisite ought to be the existence of an employment relationship, unless there exist good grounds to believe that the agreement is an independent works contract, in a positive light.

The committee majority furthermore proposes changes to the law and clarifications relating to the employer's obligations with respect to other and their own employees.[69] Furthermore, a new and cohesive provision is proposed concerning the employer's obligation to consult with shop stewards when it comes to the use of reduced hours, temporary posts, self-employed workers and the purchasing of services from other companies that will have an impact on the workforce. If these proposals are passed, we will see a positive impact on platform workers' working conditions.

NOU:2021 states that when making an assessment, consideration should be given to the motive behind the works contract, and the impact of the rights which the individual contractor is deprived of. Another proposal is to increase the employer's responsibility relating to employment security by amending Sec. 15(7) Protection against unfair dismissal, and Sec. 14(2) Preferential treatment when rehiring after redundancies, the reason being that all the more employees are working in companies that are organised into sub-contractors which offer private services. The background to this is the worry that companies being split up and organised as a group with several smaller subsidiaries is resulting in worse rights for their employees. In the event of such reorganisations, the only protection that employees currently have is, for example, preferential treatment when rehiring after redundancies in relation to the new enterprise which in many instances is much smaller than the original one. Expanding employment protection at all levels of a split organisation can therefore help

to re-assert the balance, according to the report. Splitting up the business into several sub-contractors weakens employment protections and should not be used to sidestep laws and CBAs. For example, provisions as they currently stand can be abused in that workers lose their right to preferential treatment within their own company by being offered other "appropriate work" within the group—but in an entirely different part of the country—for example, which in many cases may involve insurmountable practical obstacles for the employee. NOU:2021 proposes legislative changes that would mean that an employee who refuses to perform work elsewhere in the group still retains their right to preferential treatment within the company. The report also talks of a proposal to amend the regulation that came into force in 2015 regarding fixed-term employment in the Work Environment Act (Sec. 14(9)(2) lit. f), thereby eradicating this form of employment. The reason why the option of fixed-term employment was introduced was that employers were asking for more flexibility, but since the provision is complicated to apply it has not been used to any great extent since its introduction. Nevertheless, the majority of the committee in the report wish to repeal the provision and return to the situation where an employee who has been continuously employed for more than three years (as opposed to four) shall be considered a permanent employee.

The committee majority proposes that a definition of leasing be introduced to the Work Environment Act that clarifies the difference between leasing and contracting. The proposed definition contains criteria which must be included in a holistic assessment of whether an assignment should be considered hiring or contracting: (1) who provides the primary workforce; (2) who manages the work in this case; and (3) is the hiring party independently responsible for the outcome of the work. The report confirms that stronger regulation of this area is essential for promoting more fixed and direct services in production companies, and for avoiding so-called fictive works contracts or circumvention of the law through sub-contractors. According to Fellesforbundet, there is a need for knowledge on the state of the Norwegian labour market in accordance with the contents of NOU:2021. Fellesforbundet proposes setting up a "Technical Assessment Committee for the World of Work" (in Norwegian: Arbetslivs-TBU) which would provide annual updates on types of recruitment, scope of employment, part-time work, CBA coverage, degrees of organisation on the labour market and amongst employers, and the proportions of skilled workers within different industries.

However, NOU:21 is not as far-reaching as many unions in Norway had hoped for and the committee majority does not, for example, consider that there currently exist any grounds to propose changes to employment conditions, something which many unions are disappointed about. Fellesforbundet emphasises that many of the proposals are positive, but also highlights the issue of secondment through crewing, for example. As the situation stands, there is a document problem with companies that are circumventing the primary rule that recruitment from agencies can only be used to cover temporary needs in short-term and unpredictable situations. If companies want to use this type of recruitment, this must be agreed upon with the shop stewards according to Sec. 14(12)(2). Fellesforbundet believes that

Sec. 14(12)(1) is being abused, or alternatively misunderstood, in far too many situations at present. Fellesforbundet's opinion is that these provisions must be refined and clarified.

2.4.3 Danish law

After years of preparations, the Danish government is expected to present a strategy for platform work shortly. At the same time, digitisation within the sharing economy, new business models and digital platform enterprises are also high up on the agenda at meetings of "The Disruption Council", a body set up by government players. The Disruption Council is an initiative aimed at tackling the technology of the future by making access to education and lifelong learning easier.[70] This government council was formed in March 2017 and is made up of representatives from the public and private sectors and from academia, so as to prepare Danish citizens for the future of work. According to the Council, Denmark has a good foundation for benefiting from the opportunities that technical progress and globalisation offer. Danes are well-educated and companies in Denmark are working under good and stable conditions, and the government is striving to ensure that this remains the case in future. When it comes to platform work, the Council writes that it is important that development in this area is monitored carefully and that solutions must fall within the framework of the Danish model. In its report, the Council also writes that these new forms of employment come with new opportunities that Denmark should take advantage of. The Hilfr Agreement between 3F Private Service and private cleaning company Hilfr came into agreement after the previous government came under pressure.[71] The agreement is important because it was the first CBA for platform workers. There currently exists a national agreement for food deliveries between 3F and the Danish Chamber of Commerce (Dansk Erhverv) that should be given more room to act. The agreement offers conditions in line with other transport agreements in Denmark. The national agreement is specially designed for couriers who deliver goods and takeaways and can be signed by all platform companies that offers such services. At time of writing, the platform company Just Eat has signed the agreement.[72]

It is harder for the self-employed to organise in Denmark than it is in, say, Sweden. Many Danish unions have expressed the opinion that the competition authorities in Denmark are highly active, and that they are not letting through CBAs which could be in breach of EU law. In their capacity as independent competition authorities, the Danish competition and consumer authorities are also applying regulations relating to platforms for companies (the P2B regulation) which regulate the relationship between digital platforms and their company users.[73]

As part of a decision adopted by the competition authorities on 26 August 2020, sector-wide minimum regulations are to be eliminated at companies which sell cleaning services via digital platforms. These are the first instances in Denmark of attempts to define when self-employed persons who sell services on digital platforms are subject to competition law.[74] This decision applies to platforms such as Happy Helper and Hilfr. According to Christian Schultz, Chair of the Competition Council, the reason for this is that cleaning companies which are in competition with other companies must have the right to price their own services. Platform

workers who are self-employed can join trade unions depending on the union's articles of association. However, according to the Competition Council, CBAs which contain minimum standards for the self-employed may be in breach of competition law if individual companies apply the same minimum standards.[75] The right to membership is usually based on specific criteria relating to education or the type of work being performed. Unions may not negotiate binding conditions regarding work and pay for genuine self-employed persons since according to competition legislation these persons are regarded as companies. Certain unions are instead drawing up indicative price lists which are available to genuine self-employed persons as recommendations. Genuine self-employed persons are not covered by CBAs and therefore may not bring claims concerning individual breaches of contract before the ordinary courts, like other commercial entities.

That the issue surrounding the organisation of the self-employed has become such a major one in Denmark is due to the fact that, in many instances, platform companies have their workers sign documents stating that they are self-employed. Unions can only negotiate CBAs for self-employed platform workers subject to the condition that they negotiate binding agreements intended for self-employed persons who conduct work under conditions equivalent to those of wage earners. This is according to a Danish Labour Court assessment regarding the lawfulness of industrial action. Labour market practice in Denmark also supports flexible application. There are several examples of CBAs which apply specifically to work carried out by freelancers who are working under employment-like conditions for the duration of each order or assignment. For example, the biggest union in Denmark for white-collar workers, HK Denmark, has concluded three CBAs for media (the media agreements) for journalistic, photographic and graphic work performed by freelancers. However, these agreements do not cover genuine self-employed persons.[76]

HK's opinion is that, in its current state, competition law poses significant problems, and they believe that they must be able to organise the self-employed without this being classified as anti-competitive behaviour. HK has attempted to adapt to these new companies by acting as an employer for freelancers itself, working as a non-profit service agency for freelancers and helping freelancers with administrative work.[77]

Based on the legal practice in Denmark, CBAs can be accepted for persons who provide services that are not in breach of competition law. In a decision passed down in 1999 regarding freelance journalists, the Danish Labour Court referred to competition law and adjudged that journalists cannot be considered to be self-employed solely on the grounds that the services are provided as individual assignments.[78] The case related to freelance journalists who performed work of the same nature, under the same working conditions and for the same remuneration as journalists on permanent employment contracts.[79] A holistic approach to the individual case should be carried out and all circumstances taken into account. The Danish Labour Court's assessment is thus in line with the FNV Kunsten case before the Court of Justice of the European Union, CJEU.[80] According to the Danish Labour Court, services that are provided with characteristic working

conditions, and which are therefore similar to ordinary work, can be deemed to be in need of union negotiations regarding pay and working conditions. Thus, freelance journalists can fall under the scope of CBAs intended for journalists based on the specific employment relationship and the service provider's business plan.

2.4.4 Finnish law

In Finland, it is becoming more and more common to see bike couriers, and in and around Helsinki one will see couriers bearing various logos from platform services cycling around on all sorts of bikes. A lot is happening in Finland, even if there not yet any CBAs in place that are aimed specifically at platform workers. The platform economy was the second issue on the agenda in SAK's, the Central Organisation of Finnish Trade Unions, *Opportunity Time Project* in 2017.[81] As part of a joint project between SAK and the Finnish Institute of Occupational Healthcare, a researcher from the Institute interviewed food delivery workers who were working via platforms about their working conditions. The study was led by a research specialist at SAK. The interviews showed that the majority of workers do not have any employment relationship and that the platforms that offer the "gigs" do not see themselves as employers.[82] The Institute of Occupational Healthcare's *Reita* project mapped and investigated platform work in Finland.[83] The Finnish Work-Life Knowledge Service website lists those platform companies that are active in the country. The aim of this list is to provide information on which platform companies there are in Finland and how they work. In the study, platform work was defined according to Eurofund's definition from 2018 and the list of companies is updated regularly.[84]

An entrepreneur's responsibilities	An entrepreneur's own company	UKKO Light entrepreneurship
Business ID	The entrepreneur themselves	Not needed
VAT and withholding tax register	The entrepreneur themselves	✓
Insurance	The entrepreneur themselves	✓
Deductibles costs	The entrepreneur themselves	✓
Accounting	The entrepreneur themselves	✓
Debt collection	The entrepreneur themselves	✓
Sending invoices	The entrepreneur themselves	✓
Administrative costs	Depends on the contracts	Depends on billing
Establishment costs	60–380 €	0 €

Taken from https://www.ukko.fi/. [88]

In recent years, many public authorities have taken a stance on whether deliverers from companies which are focused on transporting restaurant food are employees or contractors. On 1 November 2021, the Occupational Safety and Health Administration in Finland under the Southern Finland Regional State Administrative Agency asserted that Wolt couriers are employees, and not self-employed as Wolt itself suggests.[85] This public authority can be compared to the Swedish Work Environment Authority. The resolution stipulated that Wolt had 14 days to take steps to prepare records of working hours or to notify the Occupational Safety and Health Administration of such steps.[86] Wolt has brought the matter before the administrative courts to try the case. According to the Regional State Administrative Agency, there are many factors to indicate that couriers are employees.

An earlier decision from the Helsinki Administrative Court considered Wolt's food delivery couriers to be contractors, and not employees. The court examined the extent to which couriers should pay VAT and asserted that, since couriers were acting as self-employed persons, they should also be treated as such according to administrative law and should therefore pay VAT.[87] One of the ground for the decision was that Wolt's couriers were supposedly able to choose their working hours and how they perform their work, and that they were personally at financial risk if work was not performed. SAK, however, is of the opinion that this is a single decision from one court, and that the decision can still be appealed.

Light entrepreneurship is made use of frequently in Finland.[88] This "form of employment", which is not a separate category of employment in the legal sense, is a type of intermedia category between employee and self-employed. The legal classification and legal consequences have not yet been reviewed by any legislative bodies or courts. Platform workers who are employed as *light entrepreneurs* do not have a physical employer, but instead have an invoicing company which takes on the administrative duties of an employer: national insurance contributions, tax, and reporting to the government. At the same time, they do not perform the key functions of an employer: they do not provide work or pay, and they do not exercise any management right. The result of this type of invoicing service is that the workers themselves do not have to get involved with tax legislation or know what duties need to be paid, with this instead being handled by the administrative party.

According to the Finnish Transport Workers' union AKT, this model is applied by several platform companies, which makes the work of organising the group harder. Being a "light entrepreneur" is not a form of employment and just like in the rest of the Nordic region, there is no intermediate category between the self-employed and employees. This newly created form of employment poses a challenge to the national legislature in the sense that this type of work is usually performed by self-employed persons who fall outside the scope of application of labour law. National legislation does not acknowledge such an arrangement as an employment contract since the characteristics of an employment relationship are not fulfilled—at least not in the majority of cases. However, there are not currently any legal cases dealing with platform work and a legal review could prove that the opposite is the case. In Finland, the criteria for union membership vary and it is not uncommon for unions to require active employment in order to join.

Below is an example of how companies that offer *light entrepreneurship* market the service.

According to AKT, the general attitude from companies working within the platform economy is cause for concern. The *Digital platform—the heart of business* guide, written by So Focus, describes how to set up a new business. Visitors to the company's website are encouraged to download the guide. This guide states, amongst other things, that:

> "on your own playing field, you make the rules. We have written a guide on creating an unfair competitive edge in the era of digital platforms."[89]

This company is not alone in marketing this way of making money through platform work. The Finland Chamber of Commerce website sells

a book called *Light entrepreneurship—a guide to part-time entrepreneurship* (original title in Swedish: Lätt företagande – en guide till deltidsföretagande). The description of the book reads:

> "The world of work is undergoing a transition where part-time entrepreneurship is become ever more common. This requires us to learn new skills and, in particular, to understand the inner workings of entrepreneurship." [90]

2.4.5 Icelandic law

Iceland can be said to have exceptionally little platform work of the type which this report focuses on. None of the major platform giants like Uber, Wolt, Foodora or Bolt exist in the country. However, a few smaller platform companies have launched websites here.

One example is Maur, a company which connects people who need help performing a certain service/work with people who are offering to perform just that type of work. This company can be said to have a *crowd work* business model, meaning the same business model as Taskrabbit, for example. For example, Maur's website has popular categories such as decorators, tutors, developers, plumbers and electricians, but you can also get help with dog-walking and other unqualified work activities.[91] As it stands, there are no CBAs which cover self-employed or platform workers, and there are therefore no examples of clauses in CBAs which define the reach of the agreement. The competition authorities have not been progressive either when it comes to interpreting exemptions from competition legislation, and it does not seem as if trade unions have attempted to undertake negotiations on behalf of self-employed or platform workers. In this study, I spoke to people from Icelandic public authorities and trade unions but since platform work does not exist here to any significant degree, there are no strategies or public enquiries relating to platform work. Therefore, at time of writing there is no reason to go into any further depth regarding Icelandic legislation for non-standardised work.[92]

2.5 EU Commission's proposal to improve the working conditions of people working through digital labour platforms

It is clear in the report that, as the situation stands, companies such as Foodora, Uber, Wolt and Bolt should be regarded as employers, thus they have certain responsibilities towards the employees. In December 2021, the EU Commission published a proposal for a directive intended to establish fair conditions on a competitive market, and to improve working conditions. We can already say that it is clear that certain companies fulfil employer functions without identifying themselves as employers, hence a directive that clarifies the legal situation would have enormous significance here. The new rules may therefore result in persons who work through digital labour platforms being able to enjoy the labour rights and social benefits they are entitled to.

The proposed directive is part of a wider package comprised of three parts:

1. A communication on the EU's strategy and measures for platform work;
2. The proposal for a directive;
3. Draft guidelines which clarify how EU competition law is applicable to CBAs for solo self-employed persons which will improve their working conditions.

2.5.1 Communication on the EU's strategy and measures for platform work

In a communication regarding the EU's strategy on and measures for platform work, the EU Commission has consulted with social stakeholders in Member States in accordance with Art. 154.2 TFEU. This consultation was performed in two stages with stakeholders having to answer questions etc. This was supplemented by input from national authorities, academics, platform companies, international organisations and other relevant stakeholders who were able to offer up their own perspective.

The aim was to achieve a directive on working conditions for platform workers at an EU level and the responses to the communication are being used as a basis for future global standards on platform work of high quality. On 24 February 2021, five questions were sent out to management and labour representatives at an EU level as part of the consultation, with these social stakeholders being given six weeks to give their opinion on the following questions:

1. Do you consider that the European Commission has correctly and sufficiently identified the issues and the possible areas for EU action?
2. Do you consider that EU action is needed to effectively address the identified issues and achieve the objectives presented?
3. If so, should the action cover all people working in platforms, whether workers or self-employed? Should it focus on specific types of digital labour platforms, and if yes which ones?
4. If EU action is deemed necessary, what rights and obligations should be included in that action? Do the objectives presented in Section 5 of this document present a comprehensive overview of actions needed?
5. Would you consider initiating a dialogue under Article 155 TFEU on any of the issues identified in this consultation?

The question which the EU Commission asked management and labour is therefore to what extent should the EU take action to improve working conditions for platform workers and what regulation would be required in that case.[93] The Commission's questions highlight various different challenges associated with platform

work. The aim is to take advantage of the benefits of the digital revolution, and also to protect the European social market economy. One issue is the legal position for those who perform the work, which is based on the grey zone that exists when it comes to classifying workers at platform companies. The results of the consultation can be found in an annex to the risk impact assessment accompanying the proposal for a directive.[94]

2.5.2 EU Commission's proposal for a directive

The EU Commission proposes a raft of measures intended to improve working conditions for platform work and to support sustainable growth for digital labour platforms in the EU. In the proposed directive, working conditions for platform workers will be improved in that (1) there will be a presumption that the company is an employer based on clear criteria; and (2) persons who work for digital platforms will receive additional protection when it comes to the use of algorithms. In other words, these new provisions will require taxi services, food delivery apps and other platform companies to provide information to employees regarding how their algorithms are used to monitor and evaluate them, and on how jobs are assigned, and fees set. The proposal will empower employees to request compensation for violations and discrimination if the algorithms are not used in a fair and lawful manner. Art. 15 of the proposal is interesting since it states that the platform companies must create a group channel for employees so that they can contact one another. This will not only create more security and community amongst workers, it may also establish better conditions for organising workers' groups in the future.

According to the new proposal, there is to be a presumption that the platform companies are employers if two of the following five criteria are met:

1. The platform sets the platform workers' wages. (How is remuneration set and are there any upper limits?);
2. The platform sets codes of conduct and standards regarding appearance. (Are there specific rules on appearance, dealing with customers, or how work is performed?);
3. The platform monitors the performance of work electronically;
4. The platform limits workers' ability to choose their working hours or work activities;
5. The platform prohibits workers from working for third parties. (Is the ability to have a client base or to work for someone else limited?)

These criteria therefore relate to how remuneration and working hours are set, and what freedoms are provided when it comes to working hours, conduct and the ability to work for others. If two of these criteria are met, there is a presumption that an employment relationship exists, and it is up to the company to demonstrate that this is not the case according to the key national concepts. Many had been hoping for a general presumption where the burden of proof fell to platform companies, regardless of specific criteria. There is a risk that the current proposal will not increase the legal certainty in the Nordic region as fully as it is intended to since we lack any supervisory authority for labour law. Instead, supervision is looked after by management and labour, and in the event that a dispute arises there is a risk that employers will continue to apply incorrect classifications in order to sidestep

laws and CBAs. An individual who believes they have been misclassified must contact their union who in turn must initiate a dispute in order to achieve a change. It is unclear how the directive would have impacted the outcome of such a dispute since the EU Commission's proposal can be interpreted such that it is nevertheless the national concepts that are to be used as a basis for such an assessment, not the criteria prepared above. These criteria will thus provide a foundation for a presumption only, not a statutory law. Consequently, there is a risk that these five criteria will simply produce a 'presumption of employership', causing the burden of proof to transfer to the employer who in turn must show that employment does not exist. As the situation stands, there is much to indicate that these platform companies bear the responsibilities of an employer. Since the proposal is still at an early stage of the legislative process, it is impossible to know how the rules will be applied if the proposal is adopted.

Preferably, the presumption would instead be constant, such that it would exist even if the company were to change its business structure, the reason being that otherwise there is a risk that companies will alter their organisation continuously in such a way that a new assessment of the presumption of employership must be performed. This would in turn mean that individuals who are still in a difficult position must take up their case anew each time the organisation's structure changes in order to claim a new presumption.

For platform workers whose classification is changed to that of an employee, this will impact the right to minimum wage (where such exists), the right to collective bargaining, the regulation of working hours and occupational health and safety, the right to paid annual leave, increased protection against occupational injuries, unemployment and sick pay benefits (where such are associated with the national concept of an employee), and statutory pensions. Thus, in the EU Commission's proposal, the burden of proof is reassigned to the platforms which must demonstrate that they are not employers and that they are therefore not required to apply the rules. This means that the platforms must substantiate that there does not exist any employment relationship if they wish to contest or disprove a presumption that has been made. Sanctions for non-compliance, which might include fines, will be set by EU countries, whilst national authorities which do not take the necessary steps may be subject to legal action from the Commission.

According to Margrethe Vestager (Executive Vice President of the EU Commission responsible for A Europe Fit for the Digital Age), the proposed directive will:

> "... help false self-employed working for platforms to correctly determine their employment status and enjoy all the social rights that come with that. Genuine self-employed on platforms will be protected through enhanced legal certainty on their status, and there will be new safeguards against the pitfalls of algorithmic management." [40]

As the situation currently stands, it is hard to know whether the proposed directive will affect other institutions such as national tax agencies since it focuses on *working conditions*, and therefore labour law, rather than tax law. However, there is a remark under Sec. 24, p. 25 of the Commission's proposal for a directive which, according to Rebecca Filis, a sharing economy expert at the Swedish Tax Agency, may impact the agency's assessments in future processes. Nevertheless, the regulation of tax law, which is a national concern, can be said to lie outside the jurisdiction of the EU Commission.

When reviewing the criteria which the EU Commission has produced, it becomes quite clear that the companies that operate an *on-demand* business model in the transport sector fulfil at least two criteria, which is what is required for a presumption of employership. At Wolt, Foodora and Uber, for example, it is the platforms which set the pricing system (first criterion). It is the platforms which determine the code of conduct and standards regarding appearance (second criterion). Thus, two of the five criteria have already been met, hence the companies bear the responsibility of an employer. The platforms monitor the performance of work, in various different ways, through different control functions such as rating systems (third criterion), and also limit workers' ability to select their working hours or work activities to varying degrees (fourth criterion). It is unclear to what extent the fifth criteria, that the platforms prohibit workers from working for third parties, is met: many of those who deliver food, for example, work for the same platform every day but it does appear that there is also the option of working for other companies. Conversely, these couriers cannot be said to have the option of creating their own client base to the extent that a self-employed person ought to according to the EU Commission's proposal. Either way, it is clear when looking at

the proposed directive that there are companies amongst these platform services which should be regarded as employers.

To what extent self-employment companies are classified as employers according to this directive is unclear, but these companies do not set pricing systems/wages or rules on appearance, monitor work, limit working hours, or prohibit workers from working for a third party. Thus, the proposal may overturn current, ever more prevalent business structures which platform companies make use of, where self-employment companies assume the role of the employer. However, not everyone is in agreement that the EU Commission's proposal should be adopted. Several unions have expressed concern over the extent to which such a regulation at an EU level would interfere with the Nordic model which is otherwise built on collective bargaining solutions between parties. There are trade unions and employers on the Nordic labour market who feel that the concept of the employee should not be defined in law since practice provides better conditions for greater flexibility, which is appropriate within the context of the rapid digital revolution. It does seem, however, that even if the burden of proof is to be altered and criteria for such a presumption introduced, it is still the key national concepts that will be applied. This will presumably be well received by those unions that consider it inappropriate to regulate working conditions at a detailed level through international regulations because the national concepts have been developed over decades at a national level. On the other hand, there is a risk that the grey zone will persist until a precedent has been set in practice.

The Commission's proposal for a directive to improve the working conditions of people working through digital labour platforms will now be discussed by the European Parliament and the Council of Ministers before it can be adopted. Member States will then have two years to implement the directive in national legislation. Immediately after the proposal was published (9 December 2021), the European Transport Workers' Federation, (ETF), wrote that they welcome this proposal which can give millions of workers across various transport sectors new employment status if applied correctly. They do, however, express concern over what the approach will look like in terms of establishing employees' status and feel that this could result in companies having significant wiggle room to circumvent the rules, the reason being that workers must meet at least two of the five criteria specified in the proposal to be recognised as an employee. It could be argued that more detailed provisions make it easier to sidestep the rules through a restructuring of one's enterprise in such a way that the criteria laid out are not satisfied, even if a great deal else points to the platform company being an employer. It is also unclear how the decision on the extent to which the criteria are met will be a matter for Member States to resolve, or whether this will be referred to the courts.

2.5.3 Guidelines on application of competition law

The third part of the EU Commission's packet is a public consultation, initiated by the Commission, into guidelines on application of EU competition law to collective agreements regarding the working conditions of solo self-employed persons. This is a central issue that has long been

discussed by the Commission, with the main question being whether sole traders should have the right to negotiate and conclude CBAs.95 The aim is to give this group, which in many instances finds itself in a bind in the sharing economy etc., better working conditions—including better pay—in cases where they are relatively exposed. Currently, this group's negotiating position is very much limited. The draft guidelines, however, apply to situations both online and offline. One solution being discussed is that those entrepreneurs who work solo, should be exempt from competition law and thus permitted to conclude CBAs. A number of different alternatives are being discussed here as part of the EU consultation. The farthest-reaching alternative intends to exempt all solo self-employed from competition law, whilst the least comprehensive relates only to those who sell services on digital platforms. The Commission has already initiated the process of expanding the right to make CBAs without this conflicting with competition law, and this process may allow the jurisdiction of CBAs to be expanded to the EU level as well.[96] This work on producing guidelines on application of competition law has not only received positive feedback, however. Across the Nordic region, unions have discussed to what extent these guidelines in fact open up the possibility of a third category of worker and can therefore be said to be counter-productive.

The draft guidelines on application of EU competition law will undergo an eight-week public consultation with the aim of collecting perspectives from affected stakeholders. The binding guidelines will then be adopted by the Commission with respect to interpreting and applying EU competition rules.

Art. 101.1 Treaty on the Functioning of the EU prohibits all agreements which might prevent, restrict or distort competition within the internal market, and thus organising self-employed persons can be said to be in violation of competition law according to this Article. According to Judgement C-67/96 of the CJEU, collective bargaining agreements between management and labour are exempt from the scope of application of this Article because certain restrictions of competition are inherent in CBAs, the reason being that CBAs strive to achieve socio-political objectives of improving living and working conditions and providing social protection.[97] Whilst the court asserted that CBAs cannot be considered to constitute a breach of the provisions of the Treaty, this exemption is limited and the organising of self-employed persons falls outside its scope of application, according to the Judgment.[98]

The new concept of *false self-employed* in EU law was coined in the FNV Kunsten Judgement of 2014.[99] This Judgement deals with the setting of boundaries between workers and the self-employed. The case relates to musicians in the Netherlands who, through a trade union for self-employed persons, concluded a CBA with an orchestral association. In its Judgment, the CJEU repeats previous arguments from case law which stress that the self-employed are covered by Art. 101.1 since the persons in question offer services on the labour market in exchange for remuneration and, in relation to a principal, carry out activities as independent economic actors. The CJEU affirmed that:

> "*... such a provision of a collective labour agreement can be regarded also as the result of dialogue between management and labour if the service providers, in the name and on behalf of whom the trade union negotiated, are in fact 'false self-employed', that is to say, service providers in a situation comparable to that of employees*".[100]

According to the assessment of the CJEU, the musicians found themselves in a situation comparable to that of employees during performance of the contract since they did not enjoy any greater freedom under the contract than these employees did. The CJEU did not intend for this concept to create a new category of person, rather "false self-employed" aims to give those who are employees in the traditional sense, but classified as self-employed by the parties, the right to fall under CBAs. However, the coordinated setting of prices between companies, and also minimum wages, as it currently is, may be in breach of the EU competition law regulation under Art. 101 TFEU.

3 Platform giants —employers or principals?

3.1 Business models at platform companies

How the business model for non-standardised work is designed is fundamental and can impact who is covered by laws and CBAs, affect the allocation of responsibilities, and challenge the key concept of employee and employer. In order to know the rights of the people carrying out this work, and to what extent the company bears the responsibility of an employer, we need to assess each specific platform company's business model. The section on "EU Commission's proposal for a directive" describes how the biggest platform giants clearly satisfy the criteria for being employers according to the proposal. The proposal has not been adopted yet and may change before a final directive is put in place.

Prassl and Risak have previously produced a model of employer functions that can be applied to different platform companies to establish more clarity over who is an employer according to the current state of play—and thus who bears employer responsibility. Assessing business models is crucial for categorisation and consequently for the obligations the company has with respect to workers.[101] Gig and platform work is inherently an atypical form of work: workers are mostly paid on commission and the number of jobs in unpredictable. Whilst the model of analysis is based on a *common law* system, a model of this type is relevant with respect to clarifying who should be regarded as an employer.

The business models used by digital platforms vary and there is no one model that could be called a "standard". Certain elements do stand out, however, and we can also point to the most common models: *crowd work* and *work-on-demand*.[102] Selberg is one of many who categorises digital platform services according to two primary types of service production.[103] *On-demand*, which is the type of service production investigated in this report, usually refers to a more structured business structure. The term relates to traditional work such as transport, cleaning, and goods delivery etc. With apps which utilise *on-demand*, the work is more ordered: examples of companies that can be categorised according to this model include taxi service Uber, and collection services Wolt and Foodora.

The other type of service production Selberg describes is *crowd work*. Unlike on-demand,

crowd work usually refers to less ordered work where a private individual is looking for someone who can perform a service, for example, and is then connected with a person offering to perform that service via a digital platform. Examples of platform companies that adopt this business structure include Taskrabbit, Airbnb, Mauri (Iceland) and Tiptapp. In this business model, it is usually the person performing the work who is responsible for ensuring reasonable pay, at the same time as the customer is the one who determines what price they are willing to pay for the specific service. The Swedish company Yepstr, for example, matches people looking for childcare with people offering to look after children. The app also facilitates other household chores such as dog-sitting, tutoring and gardening services for private individuals. This business model is based on an approach that is typical of *crowd work*: less ordered work in non-traditional sectors. Nevertheless, the platform has taken on an employer role and around 5,500 people working via the company are offered so-called *temporary fixed-term employment* in connection with taking on jobs. Yepstr handles employer contributions, taxes, insurance, holiday pay, pensions and so-called 'household maintenance tax deductions' (in Swedish: rutavdrag), and also takes responsibility for work environment issues. What is still not clear is what stance various different public authorities have on this decision and to what extent a child-minder's work environment is the company's responsibility.

Portfolio work, a type of work where platform workers carry out smaller, short-term jobs for different clients, occurs in both Denmark and Norway. In Denmark, it is common for several platform workers to be brought together via a digital platform to carry out a job as so-called *crowed employment*. Across all the Nordic countries, it is common for platform workers to be employed via sub-contractors and business models are often complicated, making it unclear who is the actual employer.[104] A major problem with platform work is the *zero-hours contracts* which are used in Sweden, Denmark and Finland and facilitated by the legislation. What this means is that in many instances, platform workers live with a degree of uncertainty over how much, and when, they will have the opportunity to work next, which in turn creates insecurity.

It is important to differentiate between the different business models when assessing the extent to which an employment relationship exists. Bike couriers at one company could be classified as employees, whilst bike couriers at another company might be regarded as self-employed. When it comes to traditional work that is divided amongst different stakeholders, this assessment becomes even harder. A common business model in Finland is for traditional work to be organised into a new form where work activities are split up into smaller tasks and responsibility assigned to the individual. Uber, Foodora and Upwork are examples of companies that could be said to employ this business model, with control being kept similar to traditional employment, but without offering the same protection associated with traditional employment. Consequently, workers are treated as self-employed but with the freedom associated with being an entrepreneur eliminated. It is therefore unclear whether these couriers can be said to be pursuing independent employment in the manner intended by the term 'contractor'. Finland has companies such as Treamer or Bolt which employ couriers on a fixed term.

HK Denmark's opinion is that, in its current state, competition law poses significant problems, and they believe that they must be able to organise the self-employed without this being classified as anti-competitive behaviour. HK has attempted to adapt to these new companies by acting as an employer for freelancers itself, working as a non-profit service agency for freelancers and helping freelancers with administrative work. This agency takes care of administrative duties and deducts a percentage fee from invoices, whilst the freelancers find customers and negotiate terms and conditions for their work themselves. HK provides a service which helps freelancers to pay taxes, set aside money for pensions and invoice customers, with the freelancer paying a commission of 8 % in return. According to HK, this is one way of helping platform workers who have been forced to categorise themselves as self-employed and who as a result cannot be covered by CBAs to the same extent as workers because of competition law.[105]

One of the risks of taking on employer responsibility as an administrative entity is that the "actual employer", the platform company, can exploit this service in order to make a profit, which ultimately comes at the expense of the platform workers. The union reports that platform companies have been shown to use HK in the same way as some platform companies exploit self-employment companies in order to avoid taking on employer responsibility themselves. Yet, there is a clear different here in that it is the freelancers themselves who are involved in setting prices and other working conditions. Those workers who want to be classified as employees instead of self-employed are referred to the

non-profit service available with HK but end up receiving a lower wage since parts of their wages go towards commission. A worker who asks to be employed thereby risks receiving lower pay than a colleague who carries out the same work without an employment contract. On the other hand, those who do use HK's service avoid having to do the administrative work themselves, and at the same time can continue to find their own clients and negotiate working conditions with their customers. HK has been actively involved in the issue of platform work since as early as 2016 when the union collaborated on a conference on the subject. The union has been part of an expert group that has taken active steps to improve working conditions for platform workers.

In Finland, *light entrepreneurship* is becoming more and more common at platform companies. *Light entrepreneurship* can be compared, to a certain degree, to the use of self-employed companies common amongst Swedish platform companies. The difference is that in many instances, these self-employed companies in Sweden acknowledge that they are employers with respect to these short-term, temporary positions. When it comes to *light entrepreneurship*, there are no employers. Rather, the invoicing company assumes certain administrative employer duties only: deducting taxes and reporting to government authorities. At the same time, they do not perform the key functions of an employer: they do not provide work or pay, and they do not exercise any management right. In Finland, one of the biggest problems seems to be specifically this lack of valid employment contracts, and in the majority of cases the platform work business model does not appear to satisfy the criteria for an employment contract.

3.1.1 Self-employment jobs in platform work

In Sweden, the use of so-called 'self-employment companies' within platform work has exploded. These invoicing companies assume employer responsibility for individual jobs and act as a financial and administrative middle-man between the worker, the customer and the platform. The self-employed person invoices for jobs and the self-employment company pays out wages after it has reviewed and approved the job. Once tax and national insurance contributions have been settled, the self-employment company pays out wages to the worker who also pays a commission for this administrative work. The website of the Swedish Professional Association for Self-Employment Companies (Egenanställningsföretagens Branschorganisation) reads:

> "Self-employment [egenanställning] is a great choice for those who want greater control over how they organise their work, but without sacrificing safe working conditions."

According to the website, these self-employed persons are employees and should pay tax as employees. For this person, being an employee means being entitled to claim statutory rights such as employment protection according to the Swedish Employment Protection Act (Lagen om anställningsskydd).[106] What is not mentioned on the website is that these persons can only be described as employees for as long as they are carrying out a specific assignment, and not for the time in between assignments. This means that, in reality, it is difficult for these self-employed persons to claim any sick pay, annual leave or other statutory rights that otherwise apply.

In Norway, too, there are several examples of commercial companies which offer freelancers formal employment contracts. These companies also claim to be combining the benefits of being employed with the independence of being a freelancer.[107] Cool Company in Norway, for example, offers help with invoicing when you don't have your own business and the company can be said to be acting as an employer for freelancers. The difference between these and the invoicing companies in Finland, therefore, is that in many instances the self-employment companies in Norway and Sweden acknowledge that they are employers. The Swedish Tax Agency's website states that a sole trader (in Swedish: egenföretagare) is employed for the duration of the assignment.[108]

According to the Swedish Professional Association for Self-Employment Companies, the labour law definition of self-employment is as follows:

> "The self-employment company is an employer for self-employed persons and provides limited-term employment for completing assignments for one or more different clients. The self-employment company is registered for F-Class tax (corporation tax)[109], is the legal contractor and as such should make delivery with respect to the client. The self-employment company invoices the client, reports employer contributions, makes tax deductions and pays out remaining sums as wages to the self-employed person. The self-employed person is registered for A-Class tax (employee income tax) and, in their capacity as an employee, has a right to invoke statutory rights such as employment protection according to the Swedish Employment Protection Act (LAS), sick pay according to the Swedish Sick Pay Act (Sjuklönelagen), and annual leave. The self-employment company takes out insurance policies for the self-employed person and should conduct systematic occupational health and safety work in accordance with the Swedish Work Environment Act (Arbetsmiljölagen)." [110]

Sweden has seen a stark rise in the use of self-employment companies for platform work, and even industries that are already subject to existing CBAs are being impacted. Moped taxi companies, for example, have made it possible for drivers to be covered by the pre-existing taxi agreement, thereby giving these platform workers the same basic working conditions as traditional taxi drivers. However, the union in question admits that the company is now sidestepping the CBA by setting up self-employment positions. This means that the platform company employs its staff via Cool Company (Sweden), thereby "avoiding" having to apply the CBA that guarantees certain working conditions and guaranteed earnings. In turn, the self-employment company, Cool Company, acts as a financial and administrative middle-man between the couriers and the companies. There are several examples here of companies using a self-employment company instead of employing their staff themselves.

Whilst self-employment companies have come to the negotiating table to achieve collective bargaining solutions with bodies such as Unionen in Sweden, the solutions proposed by these self-employment companies have not provided for sufficient protection for employees. Moreover, several trade unions in Sweden feel that, as the situation stands, it is unclear whether self-employed persons are covered by the Swedish Work Environment Act, referring to Judgment 7104-20 of the Administrative Court of Appeal in Stockholm (passed down 18/02/2021),

in which the court's assessment was that Cool Company was not responsible for workers' work environment. At time of writing, there does exist a CBA for self-employment companies in Sweden, specifically the CBA between Frilans Finans and Säljarnas Riksförbund (the Swedish National Union of Salespersons). This agreement came into effect on 1 March 2022 and is intended to guarantee a minimum hourly wage for workers who are self-employed. The CBA has been heavily criticised by other unions who highlight the fact that the agreement does not offer any employment protection and contains fixed-term employment as a primary rule. The agreement includes a minimum wage and Frilans Finans will also be required by the agreement to set aside a certain amount of money from each invoice for pensions. Salespersons believe that someone has to organise self-employed persons in order to prevent a *race to the bottom*. In other words, these people can only compete for work using their pay, with the person able to offer the lowest pay winning the assignment. In response to the question, "How will breaches of this agreement be dealt with in practice given that there is no clear employer?" Säljarna responded that Frilans Finans had assumed employer responsibility and was thus a given counterparty in case of disputes. Enshrined in the CBA is the notion that it is not intended to apply to platform work. Other trade unions in Sweden are questioning whether the agreement is in fact compliant with the Employment Protection Act at all, since it is based on fixed-term employment. It is also unclear to what extent the Work Environment Act (AML) applies to self-employed persons at Frilans Finans since whether the AML applies to the self-employed in the current situation can be described as unclear. According to Säljarna, the Work Environment Act should be applicable since Frilans Finans has assumed employer responsibility.

3.2 Platform giants who perform employer functions

The labour law analysis *Is there space for gig work in the Swedish model?* analysed the business models used by the platform giants in Sweden by reviewing employment contracts and company websites, and looking at the existing literature on the subject.[111]

Prassl and Risak's model of analysis is interesting in terms of analysing organisations' business models and examining whether these platform companies are performing employer functions, and thus ought to bear employer responsibility. In their analysis *Platforms as Employers? Rethinking the Legal Analysis of Crowd Work*, Prassl and Risak choose to focus on who is the employer by taking five employer functions as a basis for overcoming different CBA issues.[112] It is worth focusing on who is the employer, instead of who is the employee, the reason being that any uncertainty is often not so much related to the extent to which a worker is an employee, as it is grounded above all in who bears employer responsibility and therefore who should come to the negotiating table. The concept of the employer, which lacks any self-evident definition, is often connected to and reflects the concept of the worker or employee. In the Swedish Co-Determination in the Workplace Act (MBL), for example, the legal person who a worker works for is automatically classified as an employer.[113] Consequently, the role of the employer as the principal in the employment contract can be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regarded as a fundamental contractual element in labour law.[114] In their analysis, Prassl and Risak elect to focus on who is the employer, instead of who is the employee, taking five employer functions as their basis. This makes the model particularly interesting in terms of overcoming various CBA issues.

The five functions which Prassl and Risak take as their basis are that the employer:

1. has the 'power of selection' and the right to dismiss;
2. has the right to receive labour and its fruits —the employee has a duty to the employer to provide his or her labour and the results thereof, as well as rights incidental to it;
3. has obligations to provide work and pay;
4. manages the enterprise-internal market and has control over all factors of production;
5. manages the enterprise-external market and has control over all factors of production.

The authors note that "no one function mentioned above is relevant in and of itself", rather the key to the model of analysis is that the employer has a multi-functional, dependent variable. All five functions must therefore be assessed as an "ensemble". Assessing this model of analysis may be critical for what duties the company has towards the employees, that is, to what extent the platform company can be regarded as an employer, and by extension what duties the company has.[115] Each and every one of the functions covers a necessary part of the employment relationship by establishing and maintaining that an employment relationship, in the legal sense, can be said to be in line with the rights and duties it entails. The authors apply their model of analysis to Uber and Taskrabbit. They argue that Uber should be regarded as an employer according to the model since the platform company's various business models perform all the employer functions which they have established.[116]

Companies which deliver goods or provide taxi services have a business model which, in many instances, performs several employer functions: they can terminate concluded contracts if the worker does not agree to the work, they have control over the work through various rating systems, and they construct rule for how the work should be performed. It is common for platform companies to not pay wages during periods of time between jobs, and instead to pay only commission-based wages per delivery. To what extent the third employer function is performed is therefore unclear. At the same time, the authors write that their model of analysis should be used to conduct an "ensemble" assessment, and that in such an assessment the majority of the platform giants with this business structure would be classified as employers. Platform companies have also proven to fulfil the primary criteria when looking at national laws.[117] The primary criteria can be summarised such that employment exists if there exists a contractual relationship regarding personal work that is performed for the sake of another party, whereby this work is subject to monitoring and supervision. It is the platform company which determines how the work should be performed by constructing rules for how the worker should look/how much the worker should be paid and other more detailed rules on how the work should be carried out. It can also be argued that this work is subject to monitoring and supervision, such as through rating systems combined with systems that monitor how quickly the worker can complete their work.

Consequently, in the *on-demand* business model, the set-up of the work fulfils those criteria that can be described as most relevant regarding the existence of an employment relationship.

Across Europe, there have been multiple cases where it has been adjudged that platform companies should be regarded as employers. On 15 January 2019, the Court of Appeals in the Netherlands concluded that Deliveroo drivers should not be classified as "sole traders" and that they have a right to demand an employment contract with the company. In this case, the Court argued that drivers' wages were 40 % below minimum wage, which was based on a pricing system designed by the company itself. Consequently, drivers were not afforded any opportunity to achieve reasonable pay for their work.

Spain's highest court concluded that drivers for the Barcelona-based food delivery app Glovo were employees of the company, not freelancers.[118] The court highlighted that bike couriers were carrying out their work under the control of Glovo. This is the conclusion the court came to despite the fact that, to a certain degree, these couriers had the option of rejecting orders, with certain consequences if this happened repeatedly. This is interesting since the highest court in France based its assessment in the case of *Mr X. v Uber France and Uber BV*[119] on both the constant threat of deactivation, and other control functions. Glovo couriers, on the other hand, were controlled in a different way, with the company using GPS to continuously monitor their geographical location, for example, in order to assess their performance. In the case of *Rider v Glovo App*, the Spanish court highlighted that the issue of whether the worker uses their own equipment, such as a mobile telephone, is not as fundamental as the issue of who provides the work. The national court in Spain therefore came to the conclusion that couriers are employed and, in a statement, Glovo has announced that they respect the decision and are now awaiting an adequate definition at EU level.

3.2.1 Foodora

Foodora has recognised itself as an employer for its bike couriers in Norway and Sweden.[120] The company can also be said to perform the five employer functions described by Prassl and Risak.[121] Consequently, unlike Wolt for example, Foodora recognises its bike couriers as employees in Sweden and Norway. A review of the platform company's business model reveals that at least four of the five employer functions described by Prassl and Risak are performed by the company: (1) It is Foodora who initiates and terminates employment; (2) the worker has a duty to the employer to provide their work during a certain period of time; (3) in return, the platform company is required to pay the worker for that time; and (4–5) Foodora has control over and manages both internal and external production factors.

3.2.2 Uber

The question of whether Uber's drivers should be regarded as employees or sole traders under labour law has been asked the world over. The highest court in the UK recently found that platform workers at Uber should be assigned a separate form of employment as *workers*, which is an intermediate category between traditional employment and independent contractors. Consequently, whilst the drivers are not considered to be employees, this categorisation does give them a right to minimum wage and holiday

pay. However, this salary is only paid between the time a customer gets into the car and the time they get out at their destination, and not for the time in between journeys. The judgment establishes that Uber sets the fares and terms and conditions of agreement, and monitors the driver through ratings, cancellations, penalties etc. in such a way that the drivers work for Uber and not for themselves. This case may have important consequences for how the business model used by Uber and similar companies is interpreted across the whole of Europe, including in the Nordic countries.

This is just one of many Uber cases that have gone to court around the world. In Switzerland, it was recently ruled that Uber must pay national insurance contributions for its drivers who may no longer drive as self-employed persons. France's highest court for civil law established that Uber drivers are employees. The court found that working within an organised service may be an indication of subordination in those instances where an employer unilaterally determines the terms and conditions for performing the job. Since it was possible to argue that Mr X was not free to determine these conditions nor set his fare prices when operating his transport service business for Uber, there existed a subordination. It was also found that there was no leeway for Mr X to choose his own routes, with the possibility of fare reductions being applied if the Uber driver selected an "inefficient route". The driver had just a few seconds to accept the assignment, with no opportunity to obtain more information on who the customer behind the order was. The court referred to a French report which stated that the driver had just eight seconds to accept the proposed ride, sometimes with no information regarding the fact that acceptance of the ride may be conditional. In its assessment of the case, the court took into consideration the fact that drivers are constantly working under the threat of "deactivation from the platform", which would mean that they might remain connected in the hopes of performing a ride but would not then be awarded jobs, the reason being that they had not said yes quickly enough when previously online. Those Uber drivers who were exposed to this could therefore be constantly at the disposal of Uber BV within a scheduled relationship, without actually getting to perform a ride or choose a suitable "gig" themselves.[122] Uber acknowledged three ride refusals, price reductions connected to "inefficient routes", and the fact that sanctions/refusals may be applied in connection with a cancellation/user reports regardless of whether or not these claims have been confirmed. The court therefore drew the conclusion that the actual status of the driver is that of an employee, not self-employed, since Uber BV constructed rules for performing the work, monitored performance and exercised the power to apply sanctions.

In the USA, on the other hand, the company had cause to celebrate in autumn 2020 when, in connection with the presidential elections, the State of California voted that Uber would not be forced to hire its drivers. Swedish Uber has created rules for how the service should be rendered, as well as a clear pricing system. The app also has a rating system which performs a control function in that drivers with poor ratings do not receive jobs or, depending on the country and Uber model, can be deactivated. However, there are also Uber entities in the Nordic region which function just like any other taxi company where those who work are either self-employed

or employees. In Norway, Uber has managed to establish itself in the country's working model by adapting its business model to taxi market regulations and using so-called "driver companies" as middle-men between the platform and its drivers. A case study on Uber drivers in Norway shows that these Uber drivers do not have the ability to influence their pay, working conditions or their own working situation as a whole.[123] They have no opportunities to negotiate their own income, rather their pay is dependent on the number of requests, with Uber's pricing algorithm setting fares. The author of this study argues that, even in Norway, platform workers' pay and working conditions are characterised by uncertainty and a lack of independence, and that drivers are not as independent as the term 'contractor' implies.

3.2.3 Wolt

Wolt is another of many digital platforms that targets collection services. The company's structures can be categorised as an on-demand business model and, just like Foodora, the company focuses on delivering food from restaurants to customers. A review of the company's business model reveals that, just like Foodora and Uber, they perform the employer functions described by Prassl and Risak in their model of analysis. With Wolt, just like with Foodora, couriers specify in advance what times they want to work and get a guaranteed hourly wage for this time. They also get commissions on top of this which vary in size according to the length of the platform worker's journey. The company's business model is almost identical to Foodora's and Wolt can therefore be said to perform the five employer functions described in Prassl and Risak's model of analysis. Unlike Foodora, however, Wolt does not identify itself as an employer. On 1 November 2021, the Occupational Safety and Health Administration in Finland under the Southern Finland Regional State Administrative Agency asserted that Wolt couriers are employees, and not self-employed as Wolt itself argues.[124] The resolution stipulated that Wolt had 14 days to take steps to prepare records of working hours or to notify the Work Environment Authority of such steps. Wolt has brought the matter before the administrative courts to try the case. According to the Regional State Administrative Agency, there are several factors that would indicate that these couriers are employees and that they therefore have a right to annual leave, sick pay, guaranteed hourly wages and other social benefits. To what extent a court would reach the same assessment remains to be seen. At present, it is the workers themselves who are responsible for occupational health and safety and vehicle insurance.

Couriers' hourly wages (in Finland) vary depending on how many orders they have time to do.

In spring 2021, workers invoiced an average of € 15.50 per hour in company revenue. Couriers are supposed to use this income to pay their taxes, pay into a pension, pay for insurance, pay for petrol/parking/tolls, and cover other unforeseeable costs. Under the current model, Wolt provides workers with a bag and optional work clothing. The courier pays for the rest of their equipment themselves, and for vehicle maintenance. In an employment relationship, the employer should in principle reimburse the courier for using their own equipment, or provide vital equipment such as cars, bikes and mobile telephones.

Several unions around the Nordic region have attempted to negotiate with Wolt but the

company argues that it cannot conclude any sort of agreement because its business model is "based on flexibility". Wolt's website reads:

> "Wolt is a platform connecting customers, local businesses, and couriers looking for an opportunity to earn money in a flexible way. As a Wolt courier partner, you earn money by delivering orders from local businesses to customers—in the evenings, for a few hours during lunches or whenever you feel like it".[125]

This type of phrasing is common amongst platform companies, with words such as "gig", "order", "flexibility" and "freedom" appearing frequently. Wolt's website describes what job-seekers must acquire before they can start working—such as a vehicle and smartphone. Terms like 'employed' or 'work' are not used. Just like with the majority of digital platforms, the labour that gig workers perform is specifically not referred to as work in this context. In his book *The rise of just-in-time workforce: on demand work, crowdwork and labour protection in the gig-economy* (2016), de Stefano writes that companies use words such as *gig to* legitimise the fact that they do not provide employment protection or other regulations that are present in ordinary work.[126]

Wolt's own classification of itself does not appear to align with the actual legal status of the persons performing the work, however. How these workers should be classified is founded on what the company's transactions look like in reality. This means that the person must be equally as independent as the term 'contractor' implies with respect to carrying out their work. This therefore applies regardless of any rhetoric the company might use. Meaning that, in all likelihood, the company's own terminology should not be the decisive factor in the assessment of a labour court. It is Wolt that determines the pricing system and creates rules for performing the work, hence there is a great deal that speaks in favour of the company being an employer. As the situation stands, it is the platform company's algorithms which then determine how orders are allocated between the workers. How this is achieved without any risk of discrimination is unclear at the present time. Contrary to what Wolt's Head of PR Olli Koski implied during the NTF conference on platform work in Stockholm in November 2021, flexible forms of work are possible within an employment relationship in Finland.[127] A so-called *zero-hours contract* can be signed, wherein working hours of between 0 and 40 hours per week can be agreed. This agreement would therefore be similar to what platform companies currently have, with the difference that the workers would be protected by the security of employment. According to Koski, employment would involve up to half of couriers becoming unemployed since there would largely be jobs for full-time workers. This is the sort of rhetoric that has been used by several platform giants. At EU level, employer organisations have used this argument to put pressure on the EU Commission not to adopt any overly far-reaching directive.

In Sweden, Wolt's couriers are frequently contracted via a self-employment company which acts as an employer for each individual assignment, thereby acting as a middle-man between the courier and the company. Examples of such companies include Frilans Finans and Evolveras AB which, for a fee, ensure that taxes and national insurance contributions are deducted correctly before wages are paid out to wage earners. This could be described as a way of

evading employer responsibility and "hiring" an employer and is also more financially profitable since both the company and the self-employment company make financial gains through their business structure.

3.3 Platform giants with CBAs

Uber, Wolt and Foodora are all categorised as companies with an *on-demand* business model. These companies' business structures are similar to one another in several respects, although it is only Foodora (in Norway and Sweden) which employs its workers. Fellesforbundet in Norway was the first to sign a CBA for Foodora, an agreement that can be described as historic. The agreement was signed in 2019 after five weeks of strike action.[128] In addition to a minimum wage, the agreement also includes remuneration for equipment, extra remuneration during the winter months and a collective pension, even a fixed-term contract of at least ten hours of guaranteed work per week. This stands out from many other major digital platforms where workers are self-employed and remuneration is paid per delivery, rather than any guaranteed hourly wage.[129] Since the workers at Foodora in Norway are employees, there is also a right to organise and right to strike.

After the agreement was signed with Fellesforbundet, the company engaged and made use of

ever more self-employed persons overall, not least as car couriers. According to Norwegian business newspaper *Norskt näringsliv*, this has led to bike couriers being forced to switch to cars in order to continue getting jobs, with the consequence that they are no longer covered by the CBA and as such are regarded as self-employed.[130] The company therefore does not have to apply existing CBAs to all its workers since those car couriers who are self-employed fall outside of the jurisdiction of the CBA. Fellesforbundet has around 160 members from Foodora in Oslo alone. Fellesforbundet has a good relationship with the management at Foodora and all self-employed persons who demand employment at Foodora via the union have received this. Fellesforbundet believes that there are currently many people who are covered by the agreement and that the focus should be on signing more agreements with other food delivery providers to even out the competition. As the situation stands, Foodora is at a competitive disadvantage with respect to companies like Uber Eats or Wolt which do not have CBAs in place.

There currently also exists a CBA signed between the Swedish Transport Workers' Union and Foodora in Sweden which is valid from 1 April 2021. This agreement gives bike and moped couriers comparable working conditions to the rest of the transport industry in several respects. Admittedly, the agreement differs from the Transport Agreement in that the guaranteed remuneration per hour is lower. However, the agreement is instead designed specifically for platform work by providing a piecework wage, resulting in an average wage of around 140 krona per hour. This wage includes guaranteed wages, guaranteed remuneration for delivery and piecework wages per delivery. The guaranteed remuneration for delivery creates an incentive for Foodora to staff its business correctly. The courier agreement for bike and moped couriers is also specially designed for this type of work and contains a description of a scheduling system based on employees recording when they do not want to or are unable to work before the employer confirms the schedule. The CBA with Foodora in Sweden and Norway shows that the Nordic model works and that platform companies, too, can be regulated within the framework of the CBA model. One piece of criticism that the agreement has attracted is that it still allows for lock-in effects. Someone working as a courier has to invest a lot in their bike and other equipment, meaning they might suffer financial losses from changing jobs because they have to earn back what they have invested. Although the CBA currently gives couriers an extra 250 krona a

month for maintenance, this amount has been criticised as being too low.

In Sweden, Foodora's car couriers and terminal workers are not currently covered by the CBA since they are employed by two other companies, including Hungry Delivery. Formally speaking, these three companies are separate organisations, even though they have the same CEO and similar executive boards.[131] Car couriers receive commission-based pay of just 40 krona per delivery. They are also responsible for their vehicle themselves, including insurance. In addition to the commission, Hungry Delivery pays five krona per kilometre. However, this only applies when the courier is driving food from a restaurant to a customer; when the driver is driving from the customer to the next restaurant, they do not receive any compensation for mileage. This amount is meant to cover fuel, parking fees and highway tolls, and also vehicle maintenance. In an investigation carried out by news agency SVT, one car courier talks of how they start the day "in the red" and have to get a certain number of deliveries before they start earning.[132]

Many platform companies in Sweden have been calling for a similar agreement to the Bike Courier Agreement which the Swedish Transport Workers' union has negotiated with Foodora. These companies want special solutions tailored to their specific business model or want to apply the wage levels available to Foodora's bike couriers even though they don't use bikes as vehicles. Those agreements that already exist have been negotiated and the Swedish Transport Workers' union believes that the central agreements should be used in the first instance or taken as a basis for new agreements. "New agreements should not be drawn up or adapted to include special deals for these companies and worse pay—they should apply those CBAs that already exist, not the other way around. Otherwise, there is a risk that the far more well-established companies that already have CBAs for transport will be getting their own special treatment. This could create a race to the bottom with lower pay and worse conditions across the entire transport industry," says a researcher with the Swedish Transport Workers' union. "Following the Swedish model is important, but not at all costs". What is somewhat lazily referred to as the "Foodora agreement" is the new Bike Courier Agreement and other platform companies, like Wolt or Bolt for example, will not be able to get their own new agreement through if there already exists an agreement that is well-suited to the business landscape. Platform companies already have a multitude of advantages and their financial business models mean that established companies with CBAs cannot compete.

There are already plenty of CBAs in Sweden, Denmark and Norway that can be and are used for platform work without there being a need to reach a new agreement. DB Schenker's transport workers, for example, are covered by CBAs in both Sweden and Norway. Unionen, the white-collar workers' union in Sweden, has concluded agreements with three platform companies that are supposed to apply pre-existing agreements. Two of these companies apply the Central Staffing Agreement, whilst one applies the Central Media Agreement. In Denmark, the HK trade union has concluded association agreements with the digital interpreters' platform Voocali. The union is adapting pay and working conditions for Voocali interpreters to the pay and working conditions contained in the existing

CBA for translators and interpreters at HK. Consequently, this agreement gives freelance interpreters who provide services via the Voocali platform the same conditions as apply to traditional interpreting services in the industry. The agreement did not define which freelancers are covered by the agreement and which fall outside the agreement as genuine sole traders. However, it is meant to also apply to platform workers and to give them certain rights as employees.

In Sweden and Norway, CBAs with Foodora have been signed between the company and the union but both Fellesforbundet in Norway and the Swedish Transport Workers' union feel that the agreement could be applied as an industry agreement for bike couriers.[133] In Norway, Foodora is part of the employer organisation Virke which claims to be interested in signing the agreement at an industry level. They are the first to organise this type of industry in Norway. Fellesforbundet has launched a project aimed at systematically investigating where different platform companies fit in. Here, Fellesforbundet believes that the agreement is suitable not just for food delivery but also for companies which pick up and relocate e-scooters, for example. Some of the "new" platform companies in Norway already observe existing agreements. Helt Hjem, for example, currently works according to the Packaging Agreement (in Norwegian: Pakkerioverenskomsten). Issues currently being discussed include where actors should be positioned, e.g. whether Porter Buddy can observe the Haulage Agreement (in Norwegian: Spedisjonsoverenskomsten). According to Fellesforbundet, in order to establish clarity, these new companies should be mapped out: what is it the company does, how are they organised, how does the company work and what type of work do they do? After companies have been mapped and current CBAs reviewed, goals can be set out for how to organise.

The CBA between Danish Company Hilfr and 3F Privat service is worth mentioning here as it was the first CBA ever to include platform workers when it was signed in April 2018. Hilfr is a Danish cleaning company with around 216 active workers who offer cleaning services for private individuals. According to the agreement, Hilfr must employ a self-employed person after they have worked one-hundred hours. In the Hilfr agreement, therefore, a person who provides the cleaning service can be either self-employed or an employee who is covered by the agreement. A judgment from the Danish Competition Authority in August 2020 questioned to what extent the agreement complies with competition law.

The Hilfr agreement aims to position the platform company in the role of employer, just as HK's agreement for freelancers interprets it, thereby making the company responsible for expanding rights to platform workers. It can be argued that both agreements open up the possibility of a third category of employment since those who are not included in the agreement are freelancers with rights as employees. Since the agreement was the first to be signed for a platform company it can be seen as historic, even if it might be argued that the national agreement between 3F and the Danish Chamber of Commerce (Dansk Erhverv) has been more of a success. 3F Transport has concluded a nationwide CBA for food delivery services together with the Danish Chamber of Commerce (Dansk Erhverv). This agreement aims to significantly

improve conditions for food couriers without creating additional costs for consumers. Delivery giant Just Eat and its 600 couriers was the first to sign the agreement. The agreement guarantees a regulated wage, pension, holiday pay and sick pay for courier, provided their employer signs the CBA. It has taken years of hard work to reach this agreement but, after negotiations and constructive dialogues, 3F has produced an agreement that does in fact offer proper wages and working conditions.

The national agreement in Denmark stipulates, amongst other things, that an hourly wage in line with the existing transport agreement for the industry will come into force starting 1 March 2021. Working hours are at least eight hours and up to 37 hours per week. Working hours may vary within a reference period split over three months, with normal working hours not exceeding 44 hours within a single week and a total average of 37, which is equivalent to a full-time position in Denmark. Work that exceeds ordinary working hours is subject to an overtime bonus. This new agreement is an important tool for many companies and industries when it comes to signing CBAs. Currently, 3F is involved in several sets of negotiations with other platform companies and is working actively to put pressure on these companies to also sign the national agreement in order to ensure proper pay and working conditions. The agreement gives these companies the chance to assume employer responsibility, and at the same time consumers get the chance to make a choice. Just Eat has also started operating in Norway and the company, which has already signed a national CBA in Denmark, has come out and announced that they will also employ their staff in Norway.

4 Strategies for organising platform work in the Nordic region

In this study, unions across the Nordic region were interviewed in order to find out what opportunities exist for organising platform workers in practice. Some recurring strategies included: (1) not viewing platform work as anything new; (2) union legwork; (3) running influence campaigns to put pressure on companies to sign CBAs; (4) being well prepared for negotiations; and (5) bringing disputes to court in order to gain more clarity on the issue. The latter is a strategy that many unions are aiming to implement, even if it has not yet been tested in the Nordic region. These strategies have been arranged into the order in which it would make most sense to implement them in practice. These strategies were taken from various Nordic trade unions and are collated below.

4.1 Platform work —nothing new

One strategy common to many unions is not view platform work as anything new, even if it is challenging current regulations, norms and boundaries. Fellesforbundet in Norway is one of several unions that says that it is important not to make the work on organising platform workers "too advanced". What they mean is that it is the employers' perspective that platform work is something new.

"When we transitioned to calling in staff by phone, we didn't start calling the work they were doing phone work," says Fredrik Winger-Solwang, Ombudsman at the Fellesforbundet. Meaning that food delivery companies should not be regarded as tech companies just because the work is facilitated via digital platforms. Several politicians have followed in these employers' footsteps, specifically calling platform work something new or ground-breaking. The LO in Norway itself described Oda (previously Kolonial), a company which drives food deliveries, in similar terms. Fellesforbundet is instead urging unions to look at these companies' business structures with clear heads, without being influenced by the other side's perspective, so as to recognise that the work itself is traditional work. If this is the case, then there may already be pre-existing industry agreements that are applicable to these companies.

According to Fellesforbundet, it is important from a union perspective that we are ready to

take on the new companies that are appearing and to position them correctly: not just in terms of the right industry agreements, but also in terms of the classification of workers, that is, including those workers who specifically do not do platform work. The car courier industry has been organised as independent traders in Norway for a long time now, but they are not in fact as independent as the term 'contractor' implies. Even before this work was facilitated via an app or digital platform, workers were being misclassified as self-employed. For example, an independent driver with Bring currently gets a contract of around 30 pages to sign regarding how to perform their job, which could be said to constitute a fairly comprehensive job description for an independent assignment. The question we should be interested in here is not to what extent is this a platform or not. Instead, it is about to how far the work can be regarded as independent to the extent that the people performing the work fall under the term 'contractor', not 'employee'. If the worker does not fulfil the prerequisite for being self-employed, then they should not be treated as such from a legal perspective either. The trend is therefore not connected solely to platform work, even if it is clearly a recurring theme in platform work. Just as the report has shown, in many cases platform companies regulate how work should be performed, when it should be performed and how it should be priced. The ability to drive for other companies may also be restricted in that drivers for Bring, for example, must have a van with "Bring" printed on the outside. At the same time, Bring cannot be printed on your van if, as a self-employed person, you wish to drive for other companies because you would have to use a different van and wear different clothing. This hinders individuals' ability to work for other platforms.

The Swedish Transport Workers' union is another of several unions that has argued that the work that is performed for Wolt or Foodora, for example, is ordinary work being carried out by workers, rather than *gig work*. Goods deliveries, cleaning services and taxi services have been around since before digitisation. The union has assumed a stance whereby they argue that the correct designation is *platform work*, not gig work, and they believe that those who work in structured work in the transport sector are performing traditional work, not "gigs". Instead, this form of work could be compared to the work that was carried out by day labourers a hundred years ago. Just like day labourers, platform workers today often find themselves hanging around streets and town squares waiting for jobs without being paid, and without knowing if they will be selected to work the following day. These sorts of working conditions have no place in our current times and certainly not in the Nordic model. These couriers frequently work in the same workplace every day, meaning their work is not comprised of short gigs with a start and end time. A person driving for Wolt, for example, often drives for Wolt for several months. The company also has a continuous need for labour. This means that it is not temporary work, but instead is like any other work. Platform companies with this sort of business model should therefore be regarded as employers: they have a long-term need for labour and should assume employer responsibility and employ their staff.

4.2 Traditional union legwork

4.2.1 Internal strategy

Several unions have put together an internal group at union level to discuss strategies for platform work. The Swedish Transport Workers'

union has put together a group at the central level comprising one researcher and a number of ombudsmen who together have held workshops and discussed solutions for getting platform work into the Swedish model. Before each meeting, the researcher has prepared information, documents and articles which they have asked the ombudsmen to read. This material is then discussed at the meetings. Workshops have looked at policy documents, and the group has discussed how applicable law should be interpreted and has drawn up a plan for tackling the trend. During these meetings, both an internal and an external strategy have been conceived. The Swedish Transport Workers' union has also produced a general stance on how the union should think and what their position is. Fellesforbundet in Norway advocates putting together an internal group whose work would concentrate specifically on non-traditional work. The focus, according to Fellesforbundet, should be on one company at a time, and a plan should be drawn up for what exactly the process of organising the workers there should look like. Fellesforbundet points out the importance of patience in such a process and of working strategically.

At Unionen in Sweden, a few people have been given the responsibility of reviewing what is happening in terms of new forms of companies such as platform companies. Experts in this area have been in touch with multiple institutions and public authorities and have been charged with monitoring what assessments the tax court/administrative court of appeal have been making regarding the issue, for example. Unionen's ombudsman for digital labour markets recommends keeping an eye on the extent to which there exist gaps in Swedish legislation and that, in such cases, worker organisations ought to be particularly vigilant in these areas. One of the strategies at Unionen has always been to stay up to date, to review any materials that are released and to write policy documents. Unionen has been open to including platform workers and has three pre-existing CBAs that cover this group of workers. The union has also entered into a strategic cooperation with the German trade union IG Metall which focuses specifically on work performed via digital platforms.

An important steppingstone on the road to collective bargaining solutions is traditional union legwork. It is members who carry the union, and it is through organising that change can happen. The level of organisation is particularly low amongst platform workers, which is problematic since union organising is what is required to achieve collective bargaining solutions and improve workers' conditions. One of Sweden's leading researchers on union organisations and partisan relationships from a historical and international perspective, Anders Kjellberg, writes of how this level of union organisation is threatening the Swedish model.[134] According to Kjellberg, outsourcing, leasing staff, independent work and gig work is contributing to what he calls involuntary structural individualism. In this way, these different forms of work can be said to be contributing to a weakening of the strength of the collective. Platform work is in many instances performed alone with the risk of being isolated from other platformers, the company and the customer. The incentive to organise is further eroded by the fact that in many cases platform work constitutes a side job worked alongside a primary job or intended to be temporary whilst the worker waits for a better job. This form of work

is over-represented by those groups where the trend of a significant decline in the trade union movement is the greatest and where deteriorated working conditions are recycled: amongst young people born overseas and temporarily employed within the LO area.[135]

It could be argued that recruiting members is the union's most important task in terms of continuing to be strong actors on the labour market, and there is a challenge here in catching those workers who fall through the cracks because of this non-traditional form of work. Talking to different trade unions that have been successful in their recruitment of platform workers, it became apparent that creative solutions have been the key to success. Fellesforbundet has developed a plan for how new industries without CBAs within Fellesforbundet's purview should be approached.[136] The plan is to create a strategy that is based on the work the union did when they signed CBAs with food delivery company Foodora. Fellesforbundet writes that given how this form of work is growing, a team should be put together to work on the issue systematically over time.

The plan is comprised of three steps for organising platform workers:

1. ***Mapping.*** A basic map of the different platform companies: who owns them, what do their finances look like, how many people work for the company, what business model do they use, what wage system do they use and what do workers earn currently?
2. ***Reviewing current CBAs.*** Are there any applicable CBAs that could be applied and which, according to the mapping, are suitable for this company or does a new agreement need to be drawn up? Some of the "new" platform companies in Norway already observe existing agreements (just as in Sweden and Denmark). Helt Hjem, for example, is observing the packaging agreement (in Norwegian: Pakkerioverenskomsten), so could Porter Buddy observe the Haulage Agreement (in Norwegian: Spedisjonsoverenskomsten)? It is important to assign workers to the correct CBA.
3. ***Organising.*** After careful mapping and taking into account existing CBAs, goals for organising should be drawn up. Since this is a tough group to organise, one option is to pick out one or two companies at a time to begin with. At which companies is there the biggest opportunity for organising? Organising should be carried out in close cooperation with local departments in order to set up active union clubs that can stand on their own two feet. This is work that takes a lot of time.

According to Fellesforbundet, the project should be classified as a separate organising offensive and prioritised during 2022. In order to be successful, Fellesforbundet proposes putting together a group of persons from, amongst other areas, the world of social policy who, together with those people who are responsible for work on agreements, would implement the process based on goals and a mandate. The group should also involve enough people who have been focusing primarily on this area in their work for a good length of time, meaning presumably a few years. This new group can analyse new enterprises to explore the extent to which they count as "new companies under the purview of the Fellesforbundet". A further aim of the project group is to do the mapping, to review current CBAs, and to create a plan for organising based on the current mandate.

4.2.2 Organising

The first, and perhaps most difficult, task when recruiting members is reaching out to the collective. The first step is to offer membership to all platform workers. In some unions, the byelaws state that self-employed persons may not join, which makes this work harder. The majority of platform workers in the Nordic region are not employed by the platform company itself, even if legally speaking they ought to be classified as employees. A good first step, therefore, might be to establish a stance regarding how the union should address non-traditional employments and to what extent solo self-employed persons should be permitted to join the organisation. This might require a change in the union's byelaws or for an internal strategy to be produced in order to invest in organising the growing group of platform workers.

Reaching out to the collective and recruiting members requires traditional union work with union information meetings and starting up local union clubs. My interviews have thrown up several interesting solutions. An ombudsman from the Fellesforbundet, for example, reported that they ordered 20 or so food deliveries from different restaurants so that they could then give the couriers information, which was a creative way of carrying out recruitment work. Unions have also approached couriers in town squares where they gather to wait for their next food delivery and other areas where they have managed to reach couriers and pass out information. In Denmark, one strategy has been to quite simply stand outside company offices or turn up at general meeting points, on the streets and in town squares.[137] There might also be a need to provide information in English in order to include everyone. Here, it is worth seeing where these workers are to be found and what the unions can offer in order to reach this group of workers: maybe food could be provided at information meetings? Targeted active work aimed at this group can then be initiated through member trainings.

A common strategy is focusing on one company at a time when it comes to sharing resources and mental preparations. It is important to give the project full focus: to be close by, well prepared, approachable and to let members be involved in organising. By listening to members' views and suggestions, and letting workers be part of the entire journey towards reaching an agreement, we can build something sustainable and long-lasting. This is hugely important for retaining members after an agreement is in place so as not to run the risk of declining membership. In order to shorten the process and keep the embers burning, meetings should be held in quick succession one after the other. According to unions which have CBAs, it is also vital to have a few people dedicated to special tasks. Since these tasks involve a great deal of responsibility, it can be a good idea to offer those entrusted with this work payment for their union activities. During the process, the union itself would ideally also appoint people to work solely on the project, creating a mixed group of active platform professionals and union employees.

4.2.2 Strike action

Fellesforbundet's work on concluding a CBA with Foodora took patience and a long time to achieve. The organised couriers fought a hard fight and finally, after two long weeks of strike action, they managed to get their historic CBA in place. The core of Fellesforbundet's work was focused on recruiting members who could then be relatively

self-reliant in their work. Successfully recruiting members required patience and creativity. It took several years for the Fellesforbundet to manage to recruit the roughly one-hundred people who are today members in Oslo. Several hundred more joined them on the ground during their strike action and these numbers, combined with the activities which the striking workers conducted, meant the group was hugely visible throughout the strike. Bike couriers set up a bike service which they organised themselves in the town square in order to attract people. Around 10,000 people got help servicing their bikes during the two-week strike. Fellesforbundet believes that the engagement that came from within the group was key and that it is quite likely that the result would not have been the same if the Federation alone had been doing all the work itself during the process. Food was served during the strike and bike couriers held rallies every day where they cycled round waving flags. Even people who weren't involved in the strike were drawn to the area and joined the striking masses. In addition to servicing bikes, members also made waffles, spread information and built up a community. The strike received widespread media coverage, with light being shed on couriers' appalling working conditions, which in turn had an impact on public opinion.

One of the cornerstones of this success was the responsibility that was assigned to selected key persons during the process. These bike couriers took primary responsibility for planning and carrying out the organising work and the strike action. These people had various different duties before the strike, with one group writing down wants (pay, safety issues, education etc.) and summarising their demands in proposals for collective bargaining solutions, for example. These dedicated bike couriers organised the strike action extremely well and were hugely committed. According to Fellesforbundet, food was one of the keys to the success of this organising work. Bike couriers spend the entirety of their shifts transporting food, smelling the aromas of freshly prepared food, yet at the same time they themselves are constantly hungry. Therefore, one strategy for organising, recruiting members and spreading information has been providing food at information meetings, during member meetings and on strikes.

The process that was used to achieve collective bargaining solutions here could also be used to sign CBAs with other competing platform giants. For example, this template process could be applied to companies such as Wolt, provided there are strong individuals in the workplace who can bring their colleagues along with them—something which can always be found in any workplace, according to Fellesforbundet. One difference, however, is that Foodora was already employing couriers before the CBA process was set in motion, even if many were still independent operators. We might therefore talk of an extra step in the process of achieving CBAs for those platform companies that do not yet employ their staff and consequently do not identify themselves as an employer. There is also no obvious counterparty when different employer functions are split between different actors and there is no one clear employer.

In Sweden and Norway, Foodora is employing persons who were previously self-employed but who wish to become employees and are demanding employment via the union. At the same time, Fellesforbundet does not want to take too hard a line on Foodora. Instead, the focus now is on

evening out the competition and organising platform workers at other similar companies. At present, Foodora has higher fees than its competitors since working conditions are better and there is guaranteed pay. As a result, one strategy in Norway currently is to even out the competition between the different stakeholders by putting pressure on the competition. Fellesforbundet also believes that it would be strategic to focus on one company at a time in order to bring all the forces together in one place.

4.3 Influence campaigns

4.3.1 Generating opinion

One strategy that has proven successful is to make the problems associated with platform work visible in the media and to raise public awareness of the working conditions they are supporting by using certain platform companies. Many people worry about working conditions when shopping for goods or ordering food. This has proven successful in Denmark, for example, where consumers boycotted a certain company after enormous media coverage of their inadequate working conditions. As such, where there do exist sustainable alternatives where good working conditions can be guaranteed, it has been shown that consumers will choose this alternative—wherever there is an awareness of this alternative. By highlighting for consumers, the inadequate working conditions that currently prevail, companies can be pressured into signing CBAs. Amazon is not well-established in Denmark but Nemlig.com, a company with a similar business idea, has managed to establish itself. There are

around 1,400 warehouse operatives and 400–500 drivers, mostly with migrant backgrounds, working for Nemlig.com (2021).[138]

3F has worked to put pressure on the company to take responsibility and improve their inadequate working conditions in three steps:

1. Reaching out to workers at Nemlig.com by waiting around outside the company's premises daily: 3F's goal has been to show these workers they are not alone and that the union cares;
2. Industrial action. This step involves blockading parts of the deliveries. Some deliveries to elderly care facilities in Denmark, for example, have been stopped in order to pressure the company into signing a CBA;
3. Garnering media attention. This work is important throughout the process and workers have spoken out in the Danish press about their abysmal working conditions. Information has been spread in the media from newly organised drivers, and whistleblowers are frequently reporting on their negative experiences. Several channels have been used here to reach out to as many people as possible.

These campaigns are yet to result in a CBA but Nemlig.com has seen a 30 % reduction in its market share. The causes behind this can be summarised as: (1) the constant reports in the press regarding how workers are treated in the workplace; and (2) that there exist sustainable

alternatives where good working conditions can be guaranteed. In July and September 2021, 3F managed through negotiations to get two of Nemlig.com's major competitors on board, signing two CBAs for their drivers. These competing companies have therefore recognised their operatives as employees. This means that these workers are guaranteed the same wages and working conditions as other drivers in Denmark. These CBAs have been used as a PR tool and the companies have marketed themselves as sustainable companies with proper working conditions and a legitimate CBA.

One competitor in particular, Coop Danmark, has highlighted itself in the media as the sustainable alternative. The company has reinforced its brand by announcing that all their products will be delivered using green, electric vehicles as they strive to be a sustainable company that cares in more than one way. 3F's stance has been that many people do worry about working conditions when shopping for goods or ordering food. Where there exist sustainable alternatives where good working conditions can be guaranteed, consumers will opt for this alternative. This has also proven to be true when it comes to Nemlig.com and Coop. Consequently, it is important for companies to be able to demonstrate good working conditions in the workplace. Applying pressure through the media has been a successful approach and pitting two companies against one another has proven to have an impact on the choices consumers make. This has also had an impact on the extent to which these companies have been able to continue to grow on the labour market, resulting in those companies that have not recognised their operatives as employees suffering major financial losses. The aim of this strategy is to raise awareness of the conditions—or rather the lack of conditions—experienced by these workers, and to thereby put pressure on the company to act.

3F's strategy focuses on the idea that it is the customer who sustains the company, and that a platform company cannot operate without its customers. A strong strategy, therefore, is to address the public through the media and demonstrations. This puts pressure on these companies which risk losing their reputation, and thus their customers, if they do not act. Influence campaigns can be carried out at various different levels, and, with a bit of creativity, information can be spread through a variety of different channels. This can be achieved through talking to politicians who in turn make statements to the public, or through influencers/famous personalities who can generate opinion through their channels. Influence campaigns can also be run at various different stages of the process. In Norway, the working conditions of Foodora workers received huge media attention in connection with the strike action, and Fellesforbundet worked actively on its outreach by making as many contacts as possible via social media. A well-known influencer in Norway helped put pressure on the company by posting images of themselves supporting the demonstration on their Instagram account. This influenced public opinion and gave the strike greater media coverage, which may have influenced the outcome. In Sweden, too, the union's negotiations gained traction with the help of the media. One journalist, for example, took on jobs through Foodora and wrote several articles on the subject in the *Sydsvenskan* newspaper. Several couriers also chose to present their day-to-day experiences in the media. Combined

with the negotiations, the Swedish Transport Workers' union conducted a successful recruitment campaign on Stockholm's underground system which contributed to public opinion.

4.3.2 The socio-political impact

Various different expert groups have been put together across the Nordic region to facilitate discussion on the issue between public authorities, experts, politicians, and management and labour. In Sweden, for example, an expert group has met to exchange ideas in workshops held between public authorities, the Gig-lab organisation, and other relevant social stakeholders. It has been observed in several countries across Europe that the assessment of other public authorities can be crucial when it comes to the extent to which platform companies should be classified as employers, so being in close contact with these authorities is a good strategy. The Italian Tax Agency sued Wolt for unpaid employer contributions. This resulted in couriers becoming employees under tax law and Wolt was ordered to pay the sum they owed to the state.

Maintaining constant contact with politicians and other decision-makers and taking an active part in socio-political discussions is also an important part of influence work. In Denmark, scholars, academics, platform workers, union representatives and employer representatives have discussed platform work and together issued advice and inspiration for the Danish government. Organised at government level, the Disruption Council is one of several examples from Denmark of initiatives aimed at addressing the technology of the future. A nationwide agreement for food couriers was signed during 2021, a huge success for 3F Danmark and the future labour market in Denmark as a whole. This agreement can be described as a combination of industrious union legwork and influence campaigns, but also the good communication the union has maintained both internally and externally. Being in close contact with different institutions and politicians, combined with strong internal power, can thus be hugely significant for success.

According to 3F Transport, it is thanks to tax legislation, combined with influence campaigns, that Uber was not able to establish itself in Denmark. Shortfalls in tax revenue mean shortfalls in revenue for funding welfare. The union therefore believes that the tax issue might spark an important social debate which the union should take an active role in. "Over the three years that Uber was operating in Denmark, they left behind a poor image. In Denmark, Uber is associated with tax evasion, welfare fraud and social dumping", said one political advisor at 3F. The union believes that it was public opinion and the socio-political impact that contributed to Uber's inability to re-establish itself in the country.

In Denmark, the Tax Council recently established that from a tax perspective persons who work for Wolt shall be regarded as employees, not self-employed.[139] The Tax Council handles cases, makes decisions and supports the Danish Tax Administration in taxation matters in the country. This announcement came after a person who had previously worked at Wolt requested that they receive a final answer from the body regarding their employment status. The Council's assessment can be compared to the announcement made by the Occupational Safety and Health Administration under the Regional State Administrative Agency in Finland in 2021.[140]

The Work Environment Authority in Sweden is currently investigating platform work and the extent to which it is covered by the Swedish Environmental Act.[141] The company under investigation is *Taskrunner* which offers services such as help moving house or assembling furniture. Taskrunner is a company that can be described as having a less structured style of business model, with the platform connecting people who do the work with people who are willing to perform the service—without creating any detailed rules on pricing or how work should be performed. According to the Work Environment Authority, there is no risk assessment from the company's side regarding illnesses and injuries that could arise from the working environments at customer locations. The investigation is focusing on how platform companies work and whether these companies should be regarded as employers in the event that they repeatedly facilitate jobs. As part of its investigation, the Work Environment Authority has issued gig company Taskrunner with a fine in order to consider the issue of responsibility for the work environment.

With the help of analytical tools, the Norwegian Tax Agency (Skatteetaten) has been able to show that there is a huge amount of tax cheating going on. It is these efforts that have made the most progress in Norway, according to Fellesforbundet, and the Tax Agency is urging that something be done to bring about change. The tax approach is therefore hugely important, and it would be beneficial to have good cooperation in order to achieve greater regulation of non-traditional work. At the same time, we can observe that in Sweden it has not always been advantageous for workers to be employed. Those workers who are employed for individual jobs via self-employment companies receive lower pay than self-employed persons who are doing the same work because the self-employment company takes a commission for handling the administrative work. This problem is grounded in the fact that bike couriers do not have a choice and are instead forced to go through self-employment companies in order to carry out work on behalf of the platform company.

It is also unclear to what extent couriers can be classified as self-employed according to the regulations of the Swedish Tax Agency since they are considered to be far too "organised" within the company's operations. It would be expedient here to have a common definition of the term 'employee' and a common plan going forwards which focuses not just on tax revenue, but also on getting non-standardised work into the Swedish model.

4.4 Negotiations

Platform work can be regulated in the Nordic collective bargaining model. A major challenge in achieving CBAs is getting platform companies to understand the gravity of signing CBAs and joining the Nordic model. One negotiation strategy, therefore, is to explain to the counterparty how the Nordic model works. Interviewees at various trade unions have fed back on platform companies which do not understand how the Nordic model works, meaning they are not interested in signing CBAs. The unions feel that many new companies do not recognise the reason why CBAs are important or why they should be regarded as employers and take on employer responsibility. One attitude that it has been necessary to break down is that these companies

are paying "well enough" and therefore do not need to sign any CBA. Companies which express this sort of opinion likely have poor insight into how the labour market model is built. Most of these fresh-faced entrepreneurs do not intend to shirk their responsibility, rather the issue is quite simply a lack of knowledge: these people have not reflected on what happens when someone has a child or falls ill. Here, it is worth being able to understand where the counterparty is coming from in negotiations and explaining why their reasoning is not logical in the wider context. When a non-traditional start-up says they do not want to provide sick pay and that they should be exempt because this does not work in their business model, they ought to be asked the following question: "So do you believe that all companies who don't feel they can afford to provide sick pay should be allowed to do so by pointing to their finances or business model?"

How, then, should unions approach situations where the counterparty refuses to see themselves as an employer and argues that the company is simply a platform which facilitates work between customer and operative? Here, I believe that it is important, before negotiations, to map out what working for a platform looks like in reality. It is also vital that we have a good insight into what has happened in this area and what is applicable. Consequently, policy analyses should be conducted prior to holding meetings with the company. The union negotiator should have a good insight into the phenomenon, into what platform work involves and what should be focused on during negotiations. This will give the union a good fallback and solid arguments. Questions can then be asked in such a way that they create an understanding on the employer's side of their role and responsibility. If, when reviewing the company's business structure and posing supplementary questions, it transpires that it is the company that manages and assigns work, pays out wages, or offers a pension scheme, for example, then the company is also an employer in the legal sense. Here, employer organisations can help these companies understand that they are in fact employing their staff, hence they are operating a regulated enterprise which must comply with the law in much the same way as drivers have to.

Below, I have put together a list of tips from member unions for being successful in negotiations:

1. Be well prepared before your negotiations: what has been happening in the area and what is currently applicable? Review policy document, talk to people or other unions that have been involved in similar negotiations to get inspiration.
2. Map out what the company's business structure looks like and whether there are any existing CBAs that would suit the company. If new agreements need to be draw up, see if there are any exiting agreements that could be used as a basis for this new agreement.
3. Review how the company is set up and prepare a few points on employer functions which the company is performing.

It is common for non-traditional companies to argue that they cannot employ their staff because "their entire business is based on flexibility". Employing their staff does not have to mean that all that flexibility disappears. As an employer, it is possible to organise one's business according

to workload and there are good opportunities for reducing the level of employment or organising operations according to the specific platform's needs, for example.

4.5 Creating clarity through judicial practice

It is not up to the companies to renounce their legal employer responsibility, and ultimately it is up to the courts to make this assessment. One strategy that is common to several unions across the Nordic region, therefore, is to bring cases to court in order to ascertain what the actual classification of platform workers is. On the traditional labour market, a contractor is an independent individual who has the freedom to turn down a job, manage their own working hours, and work for different clients. In reality, the independence of platform work can be brought into question when a worker is sat outside waiting for jobs without pay and running the risk of getting a bad rating if the service is rendered inadequately. It is the platform company which manages and assigns the work, and it is the company which designs rules for how the service should be performed and establishes a pricing system. These workers are not as independent as the term 'contractor' implies, and there is a great deal to indicate that they do have an employment status, regardless of whether or not someone else is pretending to be an employer or whether they are currently being treated as self-employed.

Currently, there is a lack of case law in the Nordic region and since the key concepts in the employment relationship are primarily regulated in practice, there exists a grey zone in terms of what applies. The concepts of the employee and

the employer in platform work have not been tested and there is a risk that these companies' self-categorisations do not align with workers' actual status. Since business structures differ from one company to the next, there is a need for more cases to be brought before the courts. One single case will not provide an answer on how persons performing work at a platform company should be categorised. If the platform company is performing employer functions and has the power to sign a CBA, then it also follows that they have rights and duties with respect to the different actors.

There are currently disputes on-going across the Nordic region relating to issues of platform work, and case law presumably will arise, even if these processes are protracted. In Sweden, one of the major questions is who bears employer responsibility when the employer functions are split between two different parties: a self-employment company and the platform company

which manages, controls and assigns work using algorithms. This problem has also begun to spill over into Sweden's Nordic neighbours, and business models with advanced structures—where employer functions are split between several actors—are complicating the situation. As expected, disputes are currently being brought before the courts in order to achieve clarity over who should be regarded as the actual employer.

The Swedish Transport Workers' union is conducting a central case for a bike courier who worked for Foodora but was forced to use a self-employment company, PaySalary. The union is arguing that, in terms of the actual work, the self-employed person was an employee at Foodora, and it has brought an action against the courier company before the Labour Court in Sweden for wrongful dismissal. This dispute is therefore related to the extent to which Foodora has committed wrongful dismissal by using a self-employment company and thus terminating the employment with the company without good cause. The self-employment company did not have any sort of job interview and the company itself is arguing that it never had any sort of employer responsibility. The person was employed by Foodora in 2019 as a bike courier and it was when the worker wanted to change from a bike to a moped that he was referred to PaySalary. PaySalary consequently took care of all payrolls and paying out wages. Otherwise, the courier was carrying out his work just as before, and Foodora continued to use algorithms to manage and control his work and provided work equipment. It is unclear who has employer responsibility and the Swedish Transport Workers' union is conducting the case as a dismissal, working to have the dismissal declared ineffective.

The Swedish Transport Workers' union is bringing this dispute against Foodora in order to get a decision that will provide guidance on who is the actual employer for the worker. The strategy has been to not take a hard line against Foodora, the company which actually employs a large proportion of its staff. The Swedish Transport Workers' union wants to conduct this case in order to create clarity over what is applicable and, hopefully, to see that it is the platform company which is the employer, meaning that they committed a dismissal by using the self-employment company. Since there does not exist any prior case law, the case may have hugely fundamental implications.

According to the Swedish Transport Workers' union, there are two outcomes: (1) either the court considers that it is the platform which is the employer and the union knows who they should negotiate with in future; or (2) the self-employment company should be regarded as the employer. If this is the case, this would mean that they can be regarded as a staffing agency, in which case the Staffing Agreement can be applied. This outcome is less desirable but would result in unions knowing how to approach self-employment companies in future, allowing them to begin negotiations with these companies instead of the platform companies. The Staffing Agreement guarantees full-time employment for those who are covered by it, which would give workers more secure conditions than those that apply to self-employed platform workers at the moment. Currently, the Swedish Transport Workers' union is also organising self-employed platform workers and believes that, regardless of the outcome of the case, this group of workers should be covered by CBAs. Whether they will be covered by the same CBAs as those platform companies which manage

and assign their work, or whether unions should instead sign similar staffing agreements for this group, remains to be seen.

The Swedish Transport Workers' union has compared what employer criteria self-employment companies satisfy with what employer criteria platform companies satisfy. Through this work, the union has ascertained that, as the situation stands, there are two employers in a three-party relationship. There are thus three parties in a system that is dualistic in nature. Looking at the EU Commission's new proposals for criteria for employment, it becomes clear that a self-employment company would not meet any of the criteria for being classified as an employer.

In another local case with similar circumstances, the Swedish Transport Workers' union is instead considering the case of employer responsibility with respect to the CBA, and not the Swedish Employment Protection Act as in the previous case. This dispute relates to a worker at a courier car company who was forced to switch to a self-employment company and work through this company, instead of the company. Subsequently, this person was no longer covered by existing CBAs, despite the fact that they were carrying out their work just as before and the fact that they were using the platform company's vans and following the company's rules and procedures. The only actual difference with this restructuring was that the person now received their wages through the self-employment company. The platform company is a member of an employer organisation, and the union is claiming lost wages and general damages. The Swedish Transport Workers' union is bringing this case in order to achieve a precedent that will clarify who is an employer.

5 Summary

5.1 Who is the employer and who is an employee

In this study, I have reviewed the type of work usually categorised as *on-demand*. This business model involves more structured work where it is the platform company that designs rules for performing the work. Wolt, Foodora, Bolt and Uber are a few examples of companies with a more ordered business model where traditional work like cleaning, taxi services or goods deliveries are coordinated.

In reviewing these platform companies' business models, it has been revealed that all of these companies perform employer functions as described by Prassl and Risak in their model of analysis:

1. It is the platform companies that have the power of selection and right to dismiss;
2. The platform companies receive labour and its fruits—the worker has a duty to the company to provide their labour and the fruits thereof, as well as rights incidental to it, to the platform company;
3. Obligations to provide work and pay apply to all;
4. The platform companies manage the enterprise-internal and enterprise-external market and have control over all factors of production;
5. The companies monitor their employees in various ways, such as through rating systems and location tracking via GPS.

In reviewing the national laws and regulations, it has been revealed that the core content of the key concepts of the 'employee' and the 'employee' are in principle the same across the Nordic countries. These criteria are in many cases based on case law and doctrine and can be summarised such that employment relationship exists if there exists a contractual relationship regarding personal work that is performed for the sake of another party, whereby this work is subject to monitoring and supervision. If this is applied to companies with an *on-demand* business model, we can argue that work is performed for the sake of another party if: (1) the company determines how the work should be performed (sets up a pricing system, establishes requirements for appearance, participates in earnings, creates rules for performing the work etc.); and (2) the work is subject to monitoring and supervision (which is achieved through rating systems and tracking workers, for example). Traditionally speaking, a contractual basis is also a key characteristic regarding the

existence of employment. What separates the different countries is the ability to be classified as an employee without these characteristics being clearly present. Denmark and Norway list a huge number of indicators, whilst at the same time lacking explicit requirements regarding core criteria, which may lead to greater flexibility in an assessment—especially compared to Finland. The Swedish and Norwegian concepts both explicitly recognise the need to adapt to changes on the labour market. Both Denmark and Norway apply purposeful approaches. In summary, therefore, the concepts are relatively capable of adapting to new circumstances in the Nordic region, especially in Norway, Sweden and Denmark. In other words, case law could here define non-traditional work as employment based on the breadth of indicators fulfilled which, in a holistic assessment, indicate that employment exists.

When reviewing the proposed criteria which the EU Commission has produced, it becomes clear that the companies that operate an *on-demand* business model in the transport sector fulfil at least two criteria, which is what is required for a presumption of employership. At Wolt, Foodora and Uber, for example, it is the platforms which set the pricing system (first criterion). It is the platforms which determine the code of conduct and standards regarding appearance (second criterion). Thus, two of the five criteria have already been met, hence the companies bear the responsibility of an employer. The platforms monitor the performance of work, in various different ways, through different control functions such as rating systems (third criterion), and also limit workers' ability to select their working hours or work activities to varying degrees (fourth criterion). It is unclear to what extent the fifth criteria, that the platforms prohibit workers from working for third parties, is met: many of those who deliver food, for example, work for the same platform every day but it does appear that there is the option of working for other companies as well. The ability to driver for other companies may, however, be restricted in that drivers for a platform company must have a van with the company's logo printed on the outside, for example. At the same time, these logos cannot be visible on the vans if the "self-employed" driver wants to drive for other companies—in such case, they would have to use a different van and different clothing. This hinders individuals' ability to work for other platforms. Furthermore, these couriers cannot be said to have the option of creating their own client base to the extent that a self-employed person ought to according to the EU Commission's proposal. Either way, it is clear when looking at the proposed directive that there ought to be a presumption of employership with respect to these platform giants. This furthermore applies even in cases where a self-employment company is used since it is not the self-employment companies which determine pay or rules on appearance, monitor work, limit working hours or prevent people from working for third parties. Thus, the proposal may overturn current, ever more prevalent business structures which platform companies make use of, where self-employment companies assume the role of the employer.

5.2 What are the biggest challenges in terms of organising platform workers?

Regulating platform workers' working conditions and including platform workers in the Nordic model requires management and labour to reach

collective bargaining agreements. In this report, it has been shown that there exist three fundamental challenges to concluding CBAs on behalf of platform workers:

1. The grey zone that exists around who is an employer and who is an employee in this form of work. This problem is grounded in the fact that many platform companies do not identify themselves as employers, which impacts the jurisdiction of the CBA and thus the working conditions of platform workers as a whole. Instead, companies see themselves as something of a middleman that mediates services between platform workers and customers. There is a risk that non-standardised work is undermining legal predictability. Whether or not we can talk of employment is in part determined precisely by what business model the company applies. If there is no employer, with whom to sign a CBA, then it is not possible to take ordinary industrial action, which can be said to be undermining the Nordic collective bargaining model.

   This problem has its origins in the fact that platform companies' business structures assume three actors—the worker, the customer and the platform company—instead of the two actors we find in the traditional employment relationship. Since there is a lack of case law concerning who is an employee and who is an employer, combined with a simultaneous lack of any detailed or uniform definition, the legal situation is unclear. The result is that platform companies can more easily shirk their responsibility as an employer by using self-employed persons. This also distorts the competition on the labour market as those companies that do not offer reasonable pay or job security are in an entirely different financial situation. As more companies avoid employing their staff, meaning they avoid paying employer or national insurance contributions or setting aside money for workers' pensions, more and more traditional workers, or platform companies that are subject to CBAs, will be driven out.

2. The second problem is the short, temporary employment that platform work frequently involves. Zero-hours contracts and fixed-term positions are becoming ever more common within platform work in Sweden, Denmark and Finland. The use of sub-contractors and self-employment companies oftentimes involves an accumulation of successive fixed-term positions. Advanced business structures that divide up employer functions between different actors complicate the legal situation and in Sweden it is the administrative entity that has started to assume employer responsibility, instead of the entity managing and allocating the work. The way this is achieved is that those companies which have workers do not have any employees themselves, and instead employ people through other companies or "hire" a self-employment company to act as employer. Self-employment companies act as an administrative and financial middle-man that pays out wages to the workers. This cannot be seen as anything other than a way of "saving money" by sidestepping laws and CBAs and applying significantly worse conditions. Those who work via a self-employment company are regarded as employees in Sweden even if it is unclear whether the responsibility of the employer is as far-reaching as it is at "ordinary companies".[142]

Although there exist important differences, clear parallels can be drawn with staffing agencies. The biggest difference is that it is not the self-employment companies who connect workers with customers. Rather, the company can be described as a passive administrative entity.

3. A third problem common to all the Nordic countries is the level of organisation amongst platform workers. This problem has a number of different causes. Generally speaking, lower levels of organisation can be observed specifically amongst young people who were born overseas and are temporarily employed. It is also this group that is represented in platform work within the transport sector. Kjellberg writes of an involuntary *structural individualism*, arguing that young people oftentimes find themselves outside of the community in the workplace as a result of limited-term positions and unsociable working hours. Furthermore, jobs are often interspersed with periods of unemployment, which reinforces this loose connection to the workplace and reduces the propensity to organise. According to Kjellberg, outsourcing, staff leasing, independent work and gig work contribute to this structural individualism, thus these forms of work are helping to weaken the strength of the collective.[143] Without the belongingness generated by having colleagues, it is even harder to draw these individuals into the union community, which is contributing to the negative trend of fewer union clubs and fewer union representatives in workplaces. Equally, this decline is in itself leading to the continued decrease in union membership. The conditions that allow the group of workers to organise are being further worsened by the fact that in many instances, platform workers have the notion that the job is only meant to be temporary, even if this does not prove to be the case. There is also a group of platform workers who have a different primary employment, meaning that their platform work is only a side job. Both cases are presumably contributing to a feeling that "there's no point in organising". Additionally, many of those who work at platform companies are young or were born overseas, meaning a group that is usually under-represented in union organising.

5.3 What approaches have been successful in organising platform workers?

It is not possible to say what approaches are most successful in organising platform workers. Several unions are actively working on the issue, and various different strategies have been used to achieve collective bargaining solutions that include platform workers. This work should be a long-term effort if it is to have any real impact. It is therefore not about being the quickest to get CBAs in place, but about taking a structured approach to working towards goals and milestones so as to reach collective bargaining solutions that guarantee good conditions and job security. Trade unions across the Nordic region should begin this work by first bringing platform workers on board as members, regardless of their current employment status. It has been shown in this report that many of these workers are incorrectly classified as self-employed, and so organisation is required in order to bring about change and give these actual employees the job security they

are entitled to. The work that is carried out is in many cases structured work in traditional sectors and should therefore not be seen as "anything new": platform work is often just like any other work, with the sole difference that the work is facilitated via an app or digital platform.

As platform work is becoming more and more commonplace, a team should be put together to work on the issue systematically over time, possibly mapping out the prevailing situation. As a union organisation, this requires mental preparation, but also a clearly prepared plan. Internal groups have already been set up at many trade unions to focus specifically on organising non-traditional work. Groups like these can review policy documents and new materials. The aim of the project group should be to focus on one company at a time, mapping out these companies, discussing whether any relevant CBAs already exist or whether new agreements need to be negotiated, and creating plans for organising based on current mandates.[144] This new group can then analyse new enterprises on an on-going basis to explore the extent to which they currently fall under the purview of the union.

Organising should be carried out in close cooperation with local departments in order to set up active union clubs that can stand on their own two feet. This is work that takes a lot of time. It has also proven fruitful to be in close contact with other social stakeholders, and to cooperate with public authorities such as tax agencies or work environment authorities. By gaining insight into how these institutions are addressing this trend, and by expanding the cooperation, we can achieve standardised assessments between different social stakeholders. It has been observed in several countries across Europe that the assessment of other public authorities can be crucial when it comes to the extent to which platform companies should be classified as employers, so being in close contact with these authorities is a good strategy. The tax issue might also spark an important social debate as shortfalls in tax revenue mean shortfalls in revenue for funding welfare.

An important part of the journey towards collective bargaining solutions is traditional union legwork. It is members who carry the union, and it is through organising that change can happen. Here, creative solutions and union legwork have proven to be the key to success for several unions.

One union, for example, ordered huge quantities of food from a platform company in order to make contact with the couriers on delivery and to get information out to them. Trade unions have also turned up in the town squares where couriers gather in order to recruit new members. Information should be available in English so that everyone can be reached. One way of attracting workers to information meetings and member trainings is to offer food for participants. Targeted active work aimed at this group can then be initiated using member trainings. By listening to members' views and suggestions, giving members their own areas of responsibility and letting them be part of the entire journey, we can build something sustainable and long-lasting. One of the cornerstones of the success of the Foodora strike in Norway was the responsibility that selected key persons took on. This responsibility meant that they could subsequently be relatively self-reliant on this successful strike.

One strategy that is common to several unions across the Nordic region is to bring cases to court in order to ascertain what the actual classification of platform workers is. Currently, there is a lack of case law in the Nordic region and since the key concepts in the employment relationship are primarily regulated in practice, there exists a grey zone in terms of what applies. These concepts have not yet been examined in relation to platform work, which makes the situation unclear despite the fact that so much points to platform giants performing key employer functions, meaning they should be categorised as employers according to civil law. In Sweden, one of the major questions is who bears employer responsibility when the employer functions are split between two different parties: a self-employment company (which acts as an administrative entity) and the platform company (which manages, controls and assigns work using algorithms). This problem has also begun to spill over into Sweden's Nordic neighbours and business models with advanced structures—where employer functions are split between several actors—are complicating the situation.

As expected, the union is conducting cases before the courts in order to achieve clarity over who should be regarded as the actual employer. In Sweden, one union has prepared two different disputes in the hope that this will reach the courts and create a precedent. The union is raising these issues in order to get a decision that will provide guidance on who is the actual employer for workers who fall through the cracks in the current set-up. Regardless of whether this is the platform company or the self-employment company, a case of this type will clarify who it is who should come to the negotiating table in future collective bargaining negotiations.

One strategy that has proven successful is to make the problems associated with platform work visible in the media and to raise public awareness of the working conditions they are supporting by using certain platform companies. This has proven successful in Denmark, for example, where consumers boycotted a certain company after enormous media coverage of their inadequate working conditions. Where there do exist sustainable alternatives where good working conditions can be guaranteed and the union manages to get the information out there, it has been shown that consumers will choose this alternative. The first step in this strategy is to reach out to the workers in the workplace; step two is to block parts of deliveries; and step three is to reach out to the media where whistle-blowers can be given space to talk of their negative experiences and raise public awareness of their appalling working conditions. These efforts have led to one company seeing a 30 % decrease in its market share after this strategy was implemented. Here, competing companies with CBAs have even marketed themselves specifically as the sustainable alternative, which has given consumers the ability to choose the company that can guarantee better conditions. Applying pressure through the media has been a successful approach and pitting two companies against one another has proven to have an impact on the choices consumers make.

Influence campaigns can be carried out at various different levels, and with a bit of creativity, information can be spread through a variety of different channels. This can also be achieved

through talking to politicians and decision-makers who in turn make statements to the public, or through influencers/famous personalities who can generate broad opinion through their channels. It is important to bring discussions into the political sphere and to ensure that this issue is on the agenda. Various different expert groups have been put together across the Nordic region to facilitate discussion on the issue between public authorities, experts, politicians, and management and labour, and to bring about change. This, too, can be regarded as influence campaigning and cooperating on a broad scale has been effective, not least in terms of increasing understanding of the union perspective and the challenges platform work poses in the Nordic model.

Companies may think that they are paying "well enough" or that they have "a business idea that is not suitable for having CBAs or providing sick pay". Here, it is worth being able to explain why their reasoning is not logical in the wider context. Should all companies who claim to be in a poor financial situation or to have a different business model make this same point and therefore not be required to provide sick pay? This does not sound reasonable. Questions should be asked in a way that helps the counterparty to understand. If, when reviewing the company's business structure and posing supplementary questions, it transpires that the company performs fundamental employer functions (e.g. managing and assigning work, paying out wages, or offering a pension scheme), then the company is also the legal employer. An employer has a duty and a responsibility to follow the law, in the same way that a person driving a car does. The union negotiator should have a good insight into the phenomenon, into what platform work involves and what should be focused on during negotiations. This will give the union a good fallback, with solid arguments and questions which can get the counterparty to understand their responsibility.

When drawing up CBAs, it is important to ensure that the CBA will apply to everyone who carries out work for the sake of the company, regardless of whether or not they are employed via a different organisation, otherwise there is a risk that CBAs will be used as a marketing tool to give the company legitimacy and good PR. Platform companies in Sweden, Denmark and Norway have previously employed staff through other companies in order to sidestep applicable CBAs. In order to ensure that the jurisdiction of the CBA is expanded to also include persons who are self-employed, or persons employed via external organisations, a clause can be introduced that clarifies what applies. This sort of clause could clarify that the company will be considered guilty of violating the CBA if they breach the agreement by leasing labour, employing staff through other companies, or otherwise avoiding applying the agreement to workers who are performing work for the sake of the company. At time of writing, there is an on-going case in Sweden that should clarify whether the act of employing staff via another organisation, and thus not applying a CBA, can in and of itself be regarded as a breach of a CBA.

6 Discussion

This investigation has shown that we currently face serious challenges relating to the accumulation of successive fixed-term positions, social dumping, and companies refusing to assume employer responsibility. With the rising prevalence of platform work, these new business models are challenging prevailing norms, regulations and boundaries. Studying the challenges associated with platform work, it becomes clear that these problems spill over into several different systems where stakeholders and authorities should work together to reach solutions. It should be easy to do the right thing, to follow laws and regulations, and to take on one's responsibility as an employer. This assessment should not vary from one public body to the next, and this grey zone must be erased. It is not up to the employer to determine whether they should assume employer responsibility, nor can it be the case that the worker's own description in their application to the tax authorities can be used as a basis for determining their employment status.

As more companies avoid employing their staff, meaning they avoid paying employer or national insurance contributions or setting aside money for workers' pensions, more and more traditional workers that are currently subject to CBAs will be driven out. As a customer, you often get to choose who will be delivering your goods when placing an order. One of these options might be free next-day delivery, whilst another involves delivery costs with items only available for collection three days later. The reason is simple: those companies that do not provide their workers with good conditions can instead offer their services for a lower price. There is no such thing as "free delivery". When a delivery is free, the costs are borne by someone else. This competition becomes untenable. The same applies to several other industries, and platform companies competing to provide lower prices has hit the taxi industry and others hard.

One of the main difficulties involved in platform work is the different forms of business structure that challenge current systems. When different employer functions are divided up amongst different actors, there is no longer any one obvious employer. As the situation stands, there is a great deal to indicate that platform giants like Wolt, Foodora and Uber perform several key functions of an employer. If a transnational regulation is put in place at an EU level, it would appear that platform companies with an *on-demand* business model satisfy the criteria for a presumption of

employership. Workers are therefore employees and not self-employed, unless the company can prove otherwise. It would also seem that the presumption of employership will fall on the company that creates rules for how work should be performed, that is, the platform company and not the self-employment company. Self-employment companies have in some cases taken on the responsibility of the employer themselves, but this could change in future.

Currently, most unions do not want to sign CBAs with self-employment companies because this would legitimise short-term, temporary employment, whilst at the same time these self-employment companies would believe themselves to be an important building block in this new business structure. The accumulation of successive fixed-term positions that working via self-employment companies involves for people who in actual fact ought to be classified as employees is a way to circumvent the system. The worker then finds themselves in a bind, forced as they are to "hire" an employer for short-term assignments instead of being employed. Whilst self-employment companies may fulfil a function per se in other contexts, such as for freelance journalists, in platform work the worker has rarely chosen to be self-employed. They have no choice and instead have to go through this self-employment company in order to carry out work for the platform.

For the individual worker, the CBA would create both social and financial security and should be one way of preventing any undercutting amongst the competition on both the worker's and the employer's side. It has been shown that many platform companies that have CBAs in place sidestep these agreements by using other organisations, thereby excluding the workers from the CBA. At time of writing, there is a case where a company proudly presents its CBA on its website in order to highlight itself as an attractive employer, at the same time as it fails to apply this agreement to workers in practice. There is thus a risk that CBAs will be used as a marketing tool to give the platform company legitimacy and good PR. How should we overcome this business model that upsets the entire Nordic model? There currently exists a Staffing Agreement which shows that CBAs are a potential avenue, even for this type of hourly work. One example is the White Collar Workers' Agreement for the Recruitment Industry (in Swedish: Tjänstemannaavtal för bemanningsbranschen) which was signed between Unionen and Almega in Sweden. This agreement can inspire management and labour to also find a solution for platform workers in line with this agreement, should it transpire that it is the self-employment company, and not the platform company, that is to be considered the employer. In this case, it ought to be possible, through negotiations and greater organising of platform workers, to reach an agreement for hourly employees which limits the possibility of temporary positions and at the same time guarantees improved working conditions as a whole.

Getting platform companies to sign CBAs requires these companies to understand their obligations as employers. Here, too, employer organisations have a responsibility to organise employers who do not have CBAs. The energetic companies on the Nordic labour market should be interested in entering the Nordic labour market model where CBAs constitute the main regulatory tool, and management and labour

should actively work to achieve progress here. In Norway, Virke, the Federation of Norwegian Enterprise, has chosen to organise Foodora. Why haven't any employer organisations in Sweden done the same?

Across the Nordic region, unions are describing the uncertainty surrounding organising platform workers due to it being unclear what applies and the lack of a clear employer entity. At the same time, the labour movement must include this vulnerable group, a group that is growing all the time. It is the members who carry a union and platform work needs a space in the Nordic model. Court decisions from across Europe and the EU Commission's new proposals for a directive both indicate that platform workers who work *on demand* should be classified as employees in future. The labour movement in the Nordic region can act now, shaping this development and staying one step ahead. In the Nordic region, the key concepts of employee and employer can be modified specifically to allow for an ensemble assessment that is adapted to changes on the labour market. There are thus no obstacles to establishing a new practice that asserts that platform workers, who furthermore already fulfil several of the prerequisites of an employment relationship, are employees. There is no time to shut our eyes to the problem, the labour movement must act.

Bringing about change requires unions to set aside time and have a clear strategy moving forwards. It requires a well-functioning cooperation between the Nordic associations where we can warn one another of new companies, adopt a common strategy for tackling specific companies, and exchange experiences across borders. Social stakeholders must come together, and this requires that decision-makers ensure that different public bodies handle the issue the same way. Currently, a platform worker can be classified as an employee according to civil law and self-employed according to tax law, putting the worker in a vulnerable position. It is a topical issue and developments are happening all across the Nordic region, with tax authorities issuing statements on platform workers' employment status and affirming that they do not satisfy the requirements for being self-employed. Studies have also shown that these "self-employed" persons are not paying tax correctly. More than just a matter for the tax authorities, this is also a national concern: shortfalls in tax revenue mean shortfalls in revenue for funding welfare.

The labour movement should be active in discussions within society, highlighting the problem in the media and taking up the issue of platform workers' working conditions in the political sphere. Delivery providers' environmental impacts should also be highlighted. Perhaps there needs to be some sort of "collective bargaining labelling", similar to other eco-labelling, which can help customers make the right choice. In campaigns, companies can show that they are the sustainable alternative when it comes to working conditions, which would also create greater incentive for employers to sign CBAs.

One question that needs to be asked of traditional unions is whether the structure of the union can be changed, and if so how, in order to make it easier to tackle the rapid developments on the labour market. The result of these developments is that someone can be a bike courier one day, a pre-school teaching assistant the next and a

dishwasher the next. The traditional workers' organisations are set up in such a way that members are divided into different organisations according to their industry, but perhaps unions need to remodel themselves and grow instead, so that occupation is no longer quite so fundamental? Could central organisations be reorganised so that in future a person can join the central organisation directly, instead of an industry-specific union, for example? In this case, there would be no need for people to switch between different unions or join several different unions. This would open up unions to a wider membership that can tackle labour market developments where professions spill over into different industries. This proposal may seem somewhat hard-line, but the intention of this argument is that we need to dare to bounce around ideas in order to be at the forefront of the trend. Unions need to think innovatively and be capable of taking on board new, less clear-cut occupational categories so that they can continue to be strong actors on the labour market.

There is a lot happening in the area of platform work and change is on the way. At time of writing, there are already CBAs in place in Norway, Sweden and Denmark, both new CBAs that are adapted specifically for platform work, and pre-existing central agreements that have been expanded to include platform workers. Several unions are actively working on the issue, and various different strategies have been used to achieve collective bargaining solutions. Across the Nordic region, unions are bringing cases that will hopefully provide great clarity on the issue. There will also be an EU Directive aimed at improving working conditions for platform workers and regulating this form of work to a greater degree. There is hope, therefore, that platform work can, and to a greater extent will, be regulated within the framework of the Nordic model. NTF encourages all member organisations to continue to cooperate across borders in order to exchange experiences and learn from one another effectively. We are strongest together and with a strong cooperation, we can bring about change.

LIST OF SOURCES

Secondary literature

Adlercreutz, Axel. 1964. Arbetstagarbegreppet: om arbetstagarförhållandet och därtill hörande gränsdragningsfrågor i svensk civil- och socialrätt. [The concept of the employee: on the employee relationship and associated issues of boundary-making in Swedish civil and social law]. Norstedts. Stockholm.

Basili, Marcello & Rossi, Maria Alessandra. 2020. Platform-mediated reputation systems in the sharing economy and incentives to provide service quality: The case of ridesharing services, Electronic Commerce Research and Applications, Volume 39, January–February 2020.

Carson, Laura; Edström, Örjan & Nyström Birgitta (eds.). 2016. The Notion of 'employee' in Swedish and European Union Law. An Exercise in Harmony or Disharmony? Globalisation, Fragmentation, Labour and Employment Law—a Swedish perspective. Iustus.

De Stefano, Valerio. 2016. The rise of just-in-time workforce: on-demand work, crowdwork and labour protection in the gig-economy.

Elgar, Edward. 2018. Social protection for workers outside the traditional employment contract—a Swedish example, Social Security outside the realm of the Employment Contract: Informal Work and Employee-like Workers, eds. Mies Westerweld and Marius Olivier.

Florczak, Izabela; Kenner Jeff & Otto, Marta. 2018. Precarity of new forms of employment under Swedish labour law, Precarious Work. The Challenge for Labour Law in Europe. Edward Elgar.

Hansson, Mikael, ed. 2010. Kollektivavtalsrätten [The Law of Collective Bargaining Agreements], Juridisk tidsskrift, Uppsala.

Hasås, Torgny. 2021. Norge, i svart, hvitt og grått, Arbeidslivkriminalitet i Norge [Norway in Black, White and Grey, Criminality in the World of Work], Gyldendal.

Hettne, Jörgen & Otken Eriksson, Ida. 2011. EU-rättslig metod: teori och genomslag i svensk rättstillämpning [EU Law Methods: Theory and Review of Swedish Application of Law], 2nd ed., Stockholm: Norstedts juridik.

Hotvedt, M.J. & Munkholm, N.V. Labour law in the future of work: Introduction paper, Nordic future of work project 2017–2020.

Jenum Hotvedt, Marianne & Videbæk Munkholm, Natalie. 2019. Labour law in the future of work Introduction paper, Fafo paper, 2019:06.

Johnsson, Anders. 2010. Hyrt går hem: historien om den svenska bemanningsbranschen [Hiring Heads Home: A History of the Swedish Recruitment Industry], Informationsförlaget, Stockholm.

Kjellberg, Anders. 2020. Hur står det till med den fackliga organisationsgraden? [What is the situation regarding the level of organisation in unions?] Stockholm.

Kjellberg, Anders. 2019. Den svenska modellen i fara? Fack, arbetsgivare och kollektivavtal på en föränderlig arbetsmarknad [The Swedish model in danger? Unions, employers and collective bargaining agreements on a changing labour market], Arena idé.

Källström, K., Malmberg, J. & Öman, S. 2019. Den kollektiva arbetsrätten [The law of collective bargaining agreements], Uppsala and Stockholm, 2:1, Iustus förlag.

Källström, Kent. 1994. "Vem är att anse som arbetstagare?" [Who should be considered an employee?] I: Schmidt, Folke et al. Löntagarrätt [The law of wage earners], rev. ed., Juristförlaget, Stockholm.

Lehrberg, Bert. 2010. Praktisk juridisk metod [Practical legal methods], Uppsala: Institutet för bank- och affärsjuridik.

Videbæk Munkholm, Natalia & Højer Schjøler, Christian. 2018. Platform Work and the Danish Model—Legal Perspectives.

Nielsen, Ruth. 2002. "Arbejdstagerbegrebet i et arbejdsmarked under forandring—et komparativt perspektiv" [The concept of the employee on a labour market in flux—a comparative perspective].

National Inter-Agency Analysis and Investigation Centre (NTAES), Arbetslivskriminalitet. Situasjonsbeskrivelse 2020 [Criminality in the world of work. A description of the situation in 2020].

Novitz, Tonia. 2020. King's new journal: The Potential for International Regulation of Gig Economy Issues, Published online.

Nye Bransjer innen Fellesforbundets branjer – hva gjør vi? [New Sectors within Fellesforbundetin Norway's Sectors—what do we do?] Project, Fellesforbundet in Norway 2021–2022.

Nyström, Birgitta. 2010. The Internal Market and the Future of Labour Law in Europe: Insights from the Nordic Countries.

Nyström, Birgitta; Arvidsson, Niklas & Flodgren, Boel. 2017. Modern affärsrätt, Delningsplattformar och crowdworkers i den digitaliserade ekonomin – en utmaning för kollektivavtalsmodellen [Modern business law, sharing platforms and crowd-workers in the digitised economy—a challenge for the collective bargaining model]. Wolters Kluwer.

Peczenik, Aleksander. 2005. Juridikens allmänna läror [General teachings in jurisprudence], Svensk Juristtidning, no. 3, 2005.

Prassl, Jeremias. 2018. Humans as a Service: The Promise and Perils of Work in the Gig Economy. Oxford University Press.

Prassl, Jeremias & Risak, Martin. 2016. "Uber, Taskrabbit & Co: Platforms or Employers? Rethinking the Legal Analysis of Crowdwork", Comparative Labor Law & Policy Journal.

Selberg, Niklas. 2017. Arbetsgivarbegreppet och arbetsrättsligt ansvar i komplexa arbetsorganisationer: en studie av anställningsskydd, diskriminering och arbetsmiljö (diss.) [The concept of the employer and labour law responsibility in complex work organisations: a study of employee protection, discrimination

and the work environment (diss.)]. Lund University, Faculty of Law, Lund.
Selberg, Niklas. 2018. Empirisk arbetsrättsforskning, rättsrealism och rättssociologi – från välfärdsstat till gig-ekonomi [Empirical labour law research, legal realism and legal sociology—from the welfare state to the gig economy]. Juristförlaget i Lund.
Sigeman, Tore. 1987. "Olof Bergqvist och Lars Lunning Medbestämmandelagen [Olof Bergqvist and Lars Lunning: The Co-Determination in the Workplace Act]." SvjT.
Waas, Bernad & Hiessl, Christina. 2021. Collective Bargaining for Self-Employed Workers in Europe. Kluwer Law International B.V. Netherlands.
Westregård, Annamaria. 2017. Collaborative economy—a new challenge for the social partners. In: Ahlberg, K., Herzfeld Olsson, P. & Malmberg, J. (eds.). Niklas Bruun in Sverige: En vänbok. 1st ed., Iustus förlag, Uppsala.
Westregård, Annamaria. 2018. Digital Collaborative Platforms: A Challenge for Social Partners in the Nordic Model, The Nordic Journal of Commercial Law.

Public printing

Ds 2002:56. Hållfast arbetsrätt för ett föränderligt arbetsliv [Sturdy labour law for a changing world of work].
NJA 1949 p. 768. Fråga om åkare som utfört transporter åt ett skogsföretag varit att betrakta som arbetstagare i förmånsrättslagens mening [Question of whether drivers who conducted transport activities for a forestry company should have been regarded as employees within the meaning of the Right to Benefits Act].
NOU 2021:9. Den norske modellen og fremtidens arbeidsliv [The Nordic model and the world of work of the future].
Prop. 1974:148. Om arbetstagares rätt till ledighet för utbildning [On workers' right to educational leave].
Prop. 1990/91:124. Om privat arbetsförmedling och uthyrning av arbetskraft m.m. [On private agency work and the hiring out of a workforce etc.].
Prop. 1992/93:218. Om avreglering av arbetsförmedlingsmonopolet [On deregulating the monopoly on agency work].
Skatteverket. Kartläggning och analys av delningsekonomins påverkan på skattesystemet [Mapping and analysing the impact of the sharing economy on the tax system], final report, 2016.
SOU 1988:49. Arbetsmarknadsstriden: en kartläggning av arbetsmarknadskonflikter i det moderna samhället [Labour disputes: a map of labour conflicts in modern society].
SOU 2017:24. Ett arbetsliv i förändring – hur påverkas ansvaret för arbetsmiljön? [The world of work in flux—how is responsibility for the work environment being impacted?]
SOU 2017:26. Delningsekonomi: På användarnas villkor [The sharing economy: on the users' conditions].
SOU 2020:26. En sjukförsäkring anpassad efter individen [Health insurance personalised to individuals].
SOU 2020:30. En moderniserad arbetsrätt [Modernised labour law].
The Future of Work: Opportunities and Challenges for the Nordic Models (FoW) final report, 2021.
Work for a brighter future, Report from the Global Commission on the future of work, ILO 2018.

European Union

Texts adopted, Fair working conditions, rights and social protection for platform workers —New forms of employment linked to digital development, Thursday 16 September 2021, Strasbourg. www.europarl.europa.eu/doceo/document/TA-9-2021-0385_SV.html (accessed 12/12/2021).

European Parliament, European Economic Area (EEA), Switzerland and the Nordic Region, 10/2021 (accessed 09/11/2021). www.europarl.europa.eu/factsheets/sv/sheet/169/europeiska-ekonomiska-samarbetsomradet-ees-schweiz-och-norden, (accessed 12/12/2021).

Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union.

Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market ("Directive on electronic commerce").

European Parliament, www.europarl.europa.eu/factsheets/sv/sheet/169/europeiska-ekonomiska-samarbetsomradet-ees-schweiz-och-norden (accessed 01/10/2021).

European Commission First Phase Consultation document Protecting people working trough platforms, www.ec.europa.eu/commission/presscorner/detail/en/qanda_21_656 (accessed 12/12/2021).

Proposal on the Functioning of the European Union of 13 December 2007.

Proposal from EU Commission on improving working conditions for platform work, European Commission 09/12/21, www.ec.europa.eu/commission/presscorner/detail/sv/ip_21_6605 (accessed 12/12/2021).

Proposal for a Directive of the European Parliament and of the Council COM (2017) 797 on transparent and predictable working conditions in the European Union.

Proposal for a Directive of the European Parliament and of the Council COM (2017) 797 final on transparent and predictable working conditions in the European Union.

Communication from the Commission, Reaffirming the free movement of workers: rights and major developments, COM(2010) 373 final.

Communication from the Commission, A European agenda for the collaborative economy, COM(2016) 356 final.

Communication from the Commission, Guidelines on the application of EU competition law to collective agreements regarding the working conditions of solo self-employed persons, draft.

The European Commission launches a process to address the issue of collective bargaining for the self-employed, www.ec.europa.eu/commission/presscorner/detail/en/IP_20_1237 (accessed 12/12/2021).

List of cases

Swedish Labour Court, 02/11/1994 (AD 1994 no. 130).

Asociación Profesional Elite Taxi v Uber Systems Spain, SL, EU:C:2017:981.

C-256/01, Debra Allonby v Accrington & Rossendale College, Education Lecturing.

C-413/13, FNV Kunsten Informatie en Media v the State of the Netherlands EU:C:2014:2411.

C-434/15.

Competition Appeals Tribunal, ruling of 7 April 1999, j. no. 97-218.349.
CJEU C-67/96 Albany International BV v Stichting Bedrifspensienfonds Textielindustrie, EU:C:1999:430.
Administrative Court of Appeal, Judgment 7104-20 passed down 18/02/2021.
Labour court ruling AR 2007.293 and Country Report Denmark Part 2 p. 15.
Mr X. v Uber France and Uber BV Ruling 4/3 2020.
Rider v Glovo app 23, S. L., 25/09/20.

Digital sources

Work-Life Knowledge, Service, www.tyoelamatieto.fi (accessed 04/12/2021).
Dagný Aradóttir Pind, Protection of platform workers in Iceland, Part 2 Country report, Nordic future of work project 2017–2020: Working paper 11. Pillar VI. www.fafo.no/images/pub/2020/Nfow-wp11.pdf (accessed 12/12/2021).
Danish Government, Prepared for the future of work Follow-up on the Danish Disruption Council, 2019. https://www.regeringen.dk/media/6332/regeringen_disruptionraadet_uk_web.pdf (accessed 30/11/2021).
EU & Arbetsrätt [EU & Labour Law] no 3–4/2020, p. 4, Finland välkomnar förslag till direktiv om minimilöner Danmark och Sverige visar ”gult kort” [Finland welcomes proposal for directive on minimum wage, Denmark and Sweden show “yellow card”]. www.arbetsratt.juridicum.su.se/euarb/20-0304 (accessed 10/12/2021).
EU & Arbetsrätt no. 4/2021, Sverige godtar direktiv om minimilöner Danmark säger fortfarande nej [Sweden approves minimum wage directive, Denmark still voicing opposition]. www.arbetsratt.juridicum.su.se/euarb/21-04/02.asp (accessed 10/12/2021).
Eurofound, Collective agreement with Erga Omnes applicability, 2022. www.eurofound.europa.eu/efemiredictionary/collective-agreement-with-erga-omnes-applicability (accessed 13/01/2022).
Eurofound, Employment and working conditions of selected types of platform work, 2018. www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef18001en.pdf (accessed 10/10/2021).
Eurofound, Typology. www.eurofound.europa.eu/data/platform-economy/typology (accessed 02/11/2021).
Fagbladet 3F. Skatteråd om Wolt-bud: Ikke selvstændig – men lønmodtager [Tax council on Wolt couriers: Wage earners, not independent]. www.fagbladet3F.dk/artikel/ikke-selvstaendig-men-loenmodtager (accessed 27/01/2022).
Förvaltningsrätten anser att matsändaren är entreprenör – Wolt anser att det enskilda beslutet är betydelsefullt, SAK:s advokat gör det inte [Administrative Court deems food deliverers are contractors—Wolt believes single decision is meaningful, SAK lawyer does not]. www.yle.fi/uutiset/3-12058425 (accessed 10/11/2021).
Gig-Lab, Kartläggning av utmaningar inom gigekonomin i Sverige, Med syfte att bidra till en hållbar framväxt av gigekonomin [Mapping the challenges in the gig economy in Sweden, With the aim of contributing to sustainable growth in the gig economy], 2021. www.assets.websitefiles.com/5e95f95bba7c1422fb23179c/60801ba984287bfc458ad010_GiglabSverige-Kartläggning%20av%20utmaningar%20inom%20gigekonomin%20

i%20sverige.pdf (accessed 01/12/2021, accessed10/11/2021).
International Labour Organization (ILO). The role of digital labour platforms in transforming the world of work, 2021, www.ilo.org/global/research/global-reports/weso/2021/WCMS_771749/lang–en/index.htm (accessed 10/01/2021).
Danish Competition and Consumer Authority, 9/6 2021. www.kfst.dk/konkurrenceforhold/tech-virksomheder (accessed 10/12/2021).
Danish Competition and Consumer Authority. www.kfst.dk/media/qv5hoinx/20200826-minimumspriser-på-hilfrs-platform.pdf (accessed 02/02/2021).
Lätt företagande – en guide till deltidsföretagande – Finska Handelskammaren [Light entrepreneurship—a guide to part-time entrepreneurship—Finnish Chamber of Commerce]. www.kauppakamarikauppa.fi/products/kevytyrittajyys-opas-sivutoimiseen-yrittajyyteen?variant=40013827375253 (accessed 04/12/2021).
Nordic future of work project 2017–2020: Working paper 11. Pillar VI. www.fafo.no/images/pub/2020/Nfow-wp11.pdf (accessed 02/02/2022).
Nordic Future of work, FAFO. Uber in the Nordic countries: challenges and adjustments, 2019. www.fafo.no/images/pub/2019/Nfow-brief1.pdf (accessed 20/01/2022).
Protections of Platform Workers in Denmark. Part 2 Country Report. www.fafo.no/images/pub/2020/Nfow-wp10.pdf (accessed 03/12/2021).
Regeringen.se. Nu tas nästa steg mot genomförandet av Januariavtalet med flexibilitet, omställningsförmåga och trygghet på arbetsmarknaden [Next steps being taken to implement January Agreement with flexibility, adaptability and security on the labour market]. www.regeringen.se/informationsmaterial/2021/06/flexibilitet-omstallningsformaga-och-trygghet-pa-arbetsmarknaden (accessed 10/12/2021).
Finland Regional State Administrative Agency press release, ”Arbetarskyddsmyndigheten anser att Wolts matbud står i anställningsförhållande” [Worker protection authority deems Wolt’s food couriers have employment relationship], 03/11/2021. www.avi.fi/sv/pressmeddelande/-/tiedote/69923464 (accessed 02/02/2022).
Swedish Tax Agency, ”Risk för skattefel inom delningsekonomin” [Risks of tax errors within sharing economy], 15/03/2016. news.cision.com/se/skatteverket/r/risk-for-skattefel-inom-delningsekonomin,c9934237 (accessed 10/12/2021).
SVT Nyheter, ”Man ska inte kunna gömma sig bakom en app och ge usla löner” [It shouldn’t be possible to hide behind an app and pay abysmal wages], published 14/11/2021. www.svt.se/nyheter/inrikes/eva-nordmark (accessed 16/11/2021).
SVT Nyheter, Taxichaffförer på Uber och Bolt ”Det känns som slaveri” [Taxi drivers at Uber and Bolt: “It feels like slavery”], published 25/11/2021. www.svt.se/nyheter/lokalt/stockholm/taxiforare-som-kor-uber-och-bolt-det-kanns-som-slaveri (accessed 26/11/2021).
The Danish government, Prepared for the future of work. www.regeringen.dk/media/6332/regeringen_disruptionraadet_uk_web.pdf (accessed 01/12/2021).

The Future of Nordic labour law—Facing the challenges of changing labour relations, Nordic Council of Ministers, 2020:534 (accessed 02/02/2022).
Työsuojelu (2021). Arbetsmiljöverket anser att företag som levererar födoprodukter anställs [Work Environment Authority deems companies that deliver food products are employed]. www.tyosuojelu.fi/-/tyosuojelu-viranomainen-katsoo-etta-woltin-ruokalahetit-ovat-tyosuhteessa (accessed 12/11/2021).
Westerlund, Cecilia. Har gig-arbetare en plats i den svenska modellen? – En arbetsrättslig analys av hur plattformsarbetares arbetsvillkor regleras i den svenska kollektiva arbetsrätten [Is there space for gig work in the Swedish model? A labour law analysis of how platforms workers' working conditions are regulated in Swedish collective labour law]. lup.lub.lu.se/student-papers/search/publication/9051561 (accessed 02/02/2022).
Westregård, Annamaria. Key concepts and changing labour relations in Sweden Part 1 Country report, Nordic future of work project 2017–2020: Working paper 8. Pillar VI. https://www.fafo.no/images/pub/2019/Nfow-wp8.pdf (accessed 03/12/2021).
Wolt. www.blog.wolt.com/swe/2021/05/25/wolt-modellen-nasta-steg-for-en-battre-arbetsmarknad (accessed 02/02/2022).
www.arbetet.se/2020/10/30/forsta-vitet-mot-appforetag-arbetsmiljoverket-vill-testa-lagen (accessed 01/12/2021).
www.coolcompany.com/no (accessed 20/11/2021).
www.e24.no/naeringsliv/i/dOBWGX/bilbudene-inntar-foodora (accessed 20/11/2021).
www.egenanstallning.org/en/self-employment-businesses/self-employment (accessed 20/11/2021).
www.employ.no (accessed 20/11/2021).
www.gigwatch.se/2021/02/28/hundratals-foodora-bud-saknar-fortfarande-kollektivavta (accessed 03/12/2021).
www.HK.dk/raadogstoette/freelancer/bureau (accessed 15/12/2021).
www.maur.is (accessed 02/02/2022).
www.skatteverket.se/foretag/arbetsgivare/egenanstallningsforetag.4.57cadbbd15a3688ff-445d2a.html (accessed 21/11/2021).
www.ukko.fi/en/lightentrepreneurship (accessed 02/02/2022).
www.wolt.com/sv/couriers (accessed 01/11/2021).

NOTES

1 Proposal from EU Commission on improving working conditions for platform work, www.ec.europa.eu/commission/presscorner/detail/sv/ip_21_6605.
2 See, for example, www.blog.wolt.com/swe/2021/05/25/wolt-modellen-nasta-steg-for-en-battre-arbetsmarknad.
3 SVT Nyheter, Taxichaffförer på Uber och Bolt ”Det känns som slaveri” [Taxi drivers at Uber and Bolt: “It feels like slavery”]. www.svt.se/nyheter/lokalt/stockholm/taxiforare-som-kor-uber-och-bolt-det-kanns-som-slaveri.
4 SVT Nyheter, ”Man ska inte kunna gömma sig bakom en app och ge usla löner” [It shouldn’t be possible to hide behind an app and pay abysmal wages], www.svt.se/nyheter/inrikes/eva-nordmark.
5 Praktisk juridisk metod [Practical legal methods], p. 26.
6 The Future of Work: Opportunities and Challenges for the Nordic Models, final report.
7 Official Norwegian Report NOU:2021: Den norske modellen og fremtidens arbeidsliv [The Nordic model and the world of work of the future], 2021.
8 European Free Trade Association.
9 European Parliament, European Economic Area (EEA), Switzerland and the Nordic Region, 10/2021. www.europarl.europa.eu/factsheets/sv/sheet/169/europeiska-ekonomiska-samarbetsomradet-ees-schweiz-och-norden.
10 Nielsen, Ruth. ’Arbejdstagerbegrebet i et arbejdsmarked under forandring—et komparativt perspektiv’ [The concept of the employee on a labour market in flux—a comparative perspective] (2002) Arbejdsretslig tidsskrift, 152–75.
11 Hettne, Jörgen & Otken Eriksson, Ida: EU-rättslig metod: teori och genomslag i svensk rättstillämpning [EU Law Methods: Theory and Review of Swedish Application of Law]. Stockholm: Norstedts juridik, 2011, p. 168.
12 Peczenik, Aleksander; Juridikens allmänna läror, 2005, pp. 249–250.
13 Proposal from the Commission on improving working conditions for platform work.
14 Work for a brighter future, Report from the Global Commission on the future of work, ILO 2018.
15 Prassl, J. & Risak, M.; Uber, TaskRabbit & Co: Platforms by Employers? Rethinking the Legal Analysis of Crowd Work, 2016.
16 See Section 1.5 Definitions.
17 See De Stefano, The rise of just-in-time workforce: on demand work, crowdwork and labour protection in the gig-economy, 2016, pp. 471–472.
18 Swedish Tax Agency, Kartläggning och analys av delningsekonomins påverkan på skattesystemet [Mapping and analysing the impact of the sharing economy on the tax system], final report, 2016.
19 Texts adopted, Fair working conditions, rights and social protection for platform workers—New forms of employment linked to digital development, Thursday 16 September 2021, Strasbourg. www.europarl.europa.eu/doceo/document/TA-9-2021-0385_SV.html.
20 Proposal from the Commission on improving working conditions for platform work.
21 The Future of Nordic labour law—Facing the challenges of changing labour relations, Nordic Council of Ministers, 2020:534.
22 Ibid.
23 Westregård; Digital collaborative, p. 92.
24 Nyström, Birgitta; The Internal Market and the Future of Labour Law in Europe: Insights from the Nordic Countries, 2010.
25 European Free Trade Association.
26 European Parliament, European Economic Area (EEA), Switzerland and the Nordic Region, 10/2021 (accessed 11/21). https://www.europarl.europa.eu/factsheets/sv/sheet/169/.europeiska-ekonomiska-samarbetsomradet-ees-schweiz-och-norden.
27 See, inter alia,. Hotvedt, M. J. & Munkholm, N. V.; Labour law in the future of work: Introduction paper, Nordic future of work project 2017–2020: Fafo-paper 2019:06 [Hotvedt/Munkholm 2019].
28 Proposal from October 2020 (see, for example, EU & Arbetsrätt [EU & Labour Law] no. 3–4/2021, p. 4.).
29 Sjödin: EU & Arbetsrätt [EU & Labour Law] no. 4, 2021, p. 3.
30 The future of Nordic labour law—Facing the challenges of changing labour relations 2021, pp. 15–20.
31 The Future of Work: Opportunities and Challenges for the Nordic Models (FoW) and Westerlund; Har gig-arbete en

plats i den Svenska modellen? [Is there space for gig work in the Swedish model?], 2021.

32 Inter alia, Videbæk Munkholm & Højer Schjøler; Nordic journal: Platform Work and the Danish Model—Legal Perspectives.

33 The Future of Work: Opportunities and Challenges for the Nordic Models (FoW) final report.

34 Eurofound; Collective agreement with Erga Omnes applicability, 2022.

35 Westregård: Delningsplattformar och crowdworkers i den digitaliserade ekonomin – en utmaning för kollektivavtalsmodellen, p. 321.

36 The future of Nordic labour law—Facing the challenges of changing labour relations 2021, pp. 15–20.

37 Butiksoverenskomsten [Shop Agreement] 2020/2023 Danish Chamber of Commerce (Dansk Erhverv) and HK HANDEL, Sec. 12 no. 1A.

38 Protections of Platform Workers in Denmark. Part 2 Country report, p. 33.

39 Videbæk Munkholm & Højer Schjølers; Platform work and the Danish model, pp. 29–30.

40 See Regeringen.se. www.regeringen.se/informationsmaterial/2021/06/flexibilitet-omstallningsformaga-och-trygghet-pa-arbetsmarknaden/.

41 Westregård; Key concepts and changing labour relations in Sweden Part 1 Country report, pp. 5–8.

42 Ibid and Westregård; Modern affärsrätt, en antologi: Delningsplattformar och crowdworkers i den digitaliserade ekonomin – en utmaning för kollektivavtalsmodellen [Modern business law, an anthology: sharing platforms and crowd workers in the digitised economy—a challenge for the collective bargaining model], pp. 319–321.

43 The future of Nordic labour law—Facing the challenges of changing labour relations, 2019 (final report) p. 69.

44 Den norske modellen og fremtidens arbeidsliv, Utredning om tilknytningsformer og virksomhetsorganisering [The Norwegian model and the future of the world of work, An investigation into forms of association and the organising of businesses], 2021.

45 The future of Nordic labour law—Facing the challenges of changing labour relations, 2019 (final report) p. 28–30.

46 Ibid.

47 Read more about "Freelancers", opportunities for reaching an intermediate category in the Hilfr agreement, and "light entrepreneurship" in Finland in Chapter 3.3 Platform giants with CBAs.

48 Ds. 2002:56 p. 133.

49 Selberg (2017) pp. 44–45. Originally from De Stefano, The rise of just-in-time workforce: on demand work, crowdwork and labour protection in the gig-economy, 2016, p. 6.

50 International Transport Workers' Federation ITF, seminar platform work 13–14 December 2021.

51 Kartläggning av utmaningar inom gigekonomin i Sverige med syfte att bidra till en hållbar framväxt av gigekonomin, Gig-lab 2021.

52 Ibid.

53 If you run a business in Sweden, you can be approved for F-Class tax (corporate tax) by the Swedish Tax Agency, subject to application, which means that you are entitled to pay in so-called preliminary tax and national insurance contributions yourself.

54 The future of Nordic labour law—Facing the challenges of changing labour relations, 2019 (final report), pp. 110–114.

55 Administrative Court of Appeal, Judgment 7104-20 passed down 18/02/2021.

56 The future of Nordic labour law—Facing the challenges of changing labour relations, 2019 (final report) p. 28–38.

57 Prop. 1974:148 S 95.

58 Källström, K., Malmberg, J. & Öman, S; Den kollektiva arbetsrätten, p. 32.

59 NJA 1949, p. 768.

60 NJA 1949, p. 768.

61 The future of Nordic labour law 2021, p. 15.

62 See, for example, AD 1994 no. 130.

63 Swedish Act (1976:580) on Co-Determination in the Workplace [Lag om medbestämmande i arbetslivet].

64 Swedish Competition Act [Konkurrenslag 2008:579].

65 Official Norwegian Reports 2021: 9. Den norske modellen og fremtidens arbeidsliv [The Nordic model and the world of work of the future].

66 The future of Nordic labour law—Facing the challenges of changing labour relations, 2019 (final report), p. 69.

67 NTAES Arbetslivskriminalitet. Situasjonsbeskrivelse 2020, p. 18.

68 Hasås, Norge i svart, hvitt og grått, Arbeidslivkriminalitet i Norge, 2021.

69 Official Norwegian Reports 2021: Den norske modellen og fremtidens arbeidsliv [The Nordic model and the world of work of the future].

70 The Danish government, Prepared for the future of work 2019.

71 Read more under Sec. 3.3 Platform giants with CBAs.

72 Ibid.

73 Danish Competition and Consumer Authority, 9/6 2021, www.kfst.dk/konkurrenceforhold/tech-virksomheder.

74 Danish Competition and Consumer Authority, https://www.kfst.dk/afgorelser-ruling/konkurrenceomraadet/afgoerelser/2020/20200826-minimumspris-pa-happy-helpers-platform/.

75 Ibid.

76 Media agreements for freelancers www.journalistforbundet.dk/medieaftalerne.

77 Read more under Sec. 3.1 Business models at platform companies.

78 Labour court ruling AR 2007.293 and Country Report Denmark Part 2 p. 15.

79 Competition Appeals Tribunal, ruling of 7 April 1999, j. no. 97-218.349.

80 C-413/13, FNV Kunsten Informatie en Media v the State of the Netherlands EU:C:2014:2411.

81 The Central Organisation of Finnish Trade Unions, SAK (SAK is the Swedish abbreviation and the organisation is

abbreviated as FFC in Swedish and is equivalent to the LO in Sweden).

82 SAK, plattformsekonomi [The platform economy], https://www.sak.fi/yhteiskunta/mahdollisuuksien-aika/alustatalous.

83 www.tyoelamatieto.fi.

84 Eurofound, www.eurofound.europa.eu/data/platform-economy/typology.

85 Finnish Regional State Administrative Agency, ”Arbetarskyddsmyndigheten anser att Wolts matbud står i anställningsförhållande” [Worker protection authority deems Wolt’s food couriers have employment relationship], press release 03/11/2021.

86 Työsuojelu (2021) Arbetsmiljöverket anser att företag som levererar födoprodukter anställs – Arbetsmiljön [Work Environment Authority deems companies that deliver food products are employed—Work Environment].

87 Förvaltningsrätten anser att matsändaren är entreprenör – Wolt anser att det enskilda beslutet är betydelsefullt, SAK:s advokat gör det inte [Administrative Court deems food deliverers are contractors—Wolt believes single decision is meaningful, SAK lawyer does not]. https://yle.fi/uutiset/3-12058425.

88 www.ukko.fi/en/lightentrepreneurship.

89 www.sofokus.com/digital-platform-the-heart-of-a-business.

90 Lätt företagande – en guide till deltidsföretagande, www.kauppakamarikauppa.fi.

91 www.maur.is.

92 For more info, see Dagný Aradóttir Pind, Protection of platform workers in Iceland, Country report, Nordic future of work project 2017–2020: Working paper 11. Pillar VI.

93 European Commission First Phase Consultation document Protecting people working through platforms.

94 Directive of the European Parliament and of the Council On Improving Working Conditions in Platform Work.

95 Westregård (2018), p. 104.

96 The European Commission launches a process to address the issue of collective bargaining for the self-employed, https://ec.europa.eu/commission/presscorner/detail/en/IP_20_1237.

97 CJEU Judgment in C-67/96 Albany International BV v Stichting Bedrifspensienfonds Textielindustrie.

98 Ibid.

99 C-413/13, FNV Kunsten Informatie en Media v the State of the Netherlands EU:C:2014:2411.

100 Ibid.

101 Prassl, J. & Risak, M.; Uber, TaskRabbit & Co: Platforms by Employers? Rethinking the Legal Analysis of Crowd Work (2016), p. 17.

102 Selberg (2017) p. 44. Originally from De Stefano, The rise of just-in-time workforce: on demand work, crowdwork and labour protection in the gig-economy, 2016, p. 6.

103 Ibid.

104 The Future of Work: Opportunities and Challenges for the Nordic Models (FoW).

105 www.HK.dk/raadogstoette/freelancer/bureau.

106 www.egenanstallning.org/en/self-employment-businesses/self-employment/.

107 E.g. Employ and Cool Company, see www.employ.no and www.coolcompany.com/no.

108 www.skatteverket.se/foretag/arbetsgivare/egenanstallningsforetag.4.57cadbbd15a3688ff445d2a.html.

109 If you run a business in Sweden, you can be approved for F-Class tax (corporate tax) by the Swedish Tax Agency, subject to application, which means that you are entitled to pay in so-called preliminary tax and national insurance contributions yourself.

110 www.egenanstallning.org/en/self-employment-businesses/self-employment.

111 See Westerlund Cecilia “Har gig-arbete en plats i den svenska modellen?” [Is there space for gig work in the Swedish model?] 2021.

112 Prassl, J. & Risak, M.; Uber, TaskRabbit & Co: Platforms by Employers? Rethinking the Legal Analysis of Crowd Work (2016), p. 17.

113 Swedish Act (1976:580) on Co-Determination in the Workplace (Lag om medbestämmande i arbetslivet), Sec. 1(2).

114 Selberg, Niklas; Arbetsgivarbegreppet och arbetsrättsligt ansvar i komplexa organisationer, Lund. Lund University, 2017, p. 48.

115 Prassl, J. & Risak, M.; TaskRabbit & Co: Platforms by Employers? Rethinking the Legal Analysis of Crowd Work, p. 25.

116 Prassl, J. & Risak, M.; Uber, TaskRabbit & Co: Platforms by Employers? Rethinking the Legal Analysis of Crowd Work (2016), p. 17.

117 See, for example, Sec. 2.2 The concepts of the employee and the employer.

118 Rider v Glovo app 23, S.L, 25/09/20.

119 Read more about Uber, Mr X. v Uber France and Uber BV Ruling 4/3 2020 under Sec. 3.2.2 Uber.

120 This does not apply to all couriers, however, read more under “Platform giants with CBAs”.

121 See Westerlund Cecilia “Har gig-arbete en plats i den svenska modellen?” [Is there space for gig work in the Swedish model?] (2021).

122 Mr X. v Uber France and Uber BV Ruling 4/3 2020.

123 Nordic Future of Work, FAFO; Uber in the Nordic Countries: Challenges and Adjustments, 2019.

124 Finnish Regional State Administrative Agency, “Arbetarskyddsmyndigheten anser att Wolts matbud står i anställningsförhållande” [Worker protection authority deems Wolt’s food couriers have employment relationship], press release 03/11/2021.

125 www.wolt.com/sv/couriers.

126 De Stefano, The rise of just-in-time workforce: on demand work, crowdwork and labour protection in the gig-economy (2016), p. 12.

127 Westerlund; Har plattformsarbete en plats i den nordiska modellen [Does platform work have a place in the Nordic model], NTF conference 16/11/21 i Stockholm.

128 See more about the strategy underlying the agreement in Sec. 4.2 Traditional union legwork.

129 See, for example, www.e24.no/naeringsliv/i/dOBWGX/bilbudene-inntar-foodora.
130 Ibid.
131 See, for example, www.gigwatch.se/2021/02/28/hundratals-foodora-bud-saknar-fortfarande-kollektivavtal.
132 SVT Nyheter, www.svt.se/nyheter/lokalt/stockholm/taxiforare-som-kor-uber-och-bolt-det-kanns-som-slaveri.
133 Foodora has signed the Transport Agreement in Sweden with the conditions (special solutions) for bike couriers enclosed as an annex.
134 Kjellberg, Anders; Den svenska modellen i fara? Fack, arbetsgivare och kollektivavtal på en föränderlig arbetsmarknad.
135 Kjellberg, Anders; Den svenska modellen i fara? Fack, arbetsgivare och kollektivavtal på en föränderlig arbetsmarknad.
136 Nye Bransjer innen Fellesforbundets bransjer – hva gjør vi? Project, Fellesforbundet in Norway 2021–2022.
137 Read more about this under Sec. 4.3 Influence campaigns.
138 These figures relate to the year 2021.
139 Fagbladet 3F Skatteråd om Wolt-bud: Ikke selvstændig – men lønmodtager [Tax council on Wolt couriers: Wage earners, not independent], www.fagbladet3F.dk/artikel/ikke-selvstaendig-men-loenmodtager 27/01/2022.
140 Read more under Sec. 3.2 Platform giants who perform employer functions, and Finnish Regional State Administrative Agency, "Arbetarskyddsmyndigheten anser att Wolts matbud står i anställningsförhållande" [Worker protection authority deems Wolt's food couriers have employment relationship], press release 03/11/2021.
141 See, for example, www.arbetet.se/2020/10/30/forsta-vitet-mot-appforetag-arbetsmiljoverket-vill-testa-lagen.
142 See Administrative Court of Appeal, Judgment 7104-20 passed down 18/02/2021. Cool Company's responsibility for the work environment was not as far reaching as "ordinary companies".
143 Kjellberg, Anders, Den svenska modellen i fara? Fack, arbetsgivare och kollektivavtal på en föränderlig arbetsmarknad.
144 See Fellesforbundet in Norway's three steps for organising platform workers in Sec. 4.3 Influence campaigns.

COLLABORATING UNIONS AND ORGANISATIONS

3F Transport, Denmark
Arena Idé, Sweden
Transport Workers' union AKT ry, Finland
European Transport Workers' Federation ETF, Belgium
Trade Union Pro, Finland
Fellesforbundet, Norway
HK, Denmark
Icelandic Confederation of Labour, ASI, Iceland
International Transport Workers' Federation ITF, UK
Parat, Norway
Servicefacket PAM, Finland
Swedish Tax Agency, Sweden
Säljarnas Riksförbund, Sverige
Swedish Confederation of Professional Employees, TCO, Sweden
Swedish Transport Workers' union, Sweden
Unionen, Sweden
Foreign Office, Iceland
Wolt, Finland
Yrkestrafikforbundet, YTF, Norway

PLATFORM WORK IN THE NORDIC COUNTRIES

Platform work is becoming ever more prevalent. According to the EU Commission, there are currently 28 million people in the EU working via digital labour platforms. In recent years, discussions have been focused on the extent to which jobs awarded via an app should be viewed the same as traditional work and, if this is the case, who is the employer. The new platform companies claim that they are simply job facilitators and that they are opening up a world of opportunities where anyone can work anywhere. Many platform companies claim that the persons they employ are self-employed persons or sole traders. All over Europe, however, it has been shown that in many cases these companies' self-classification do not line up with what their transactions look like in reality. When companies incorrectly relinquish their employer responsibility, the rights of the worker are violated. How should the Nordic unions go about getting platform work into the Nordic model?

These problems spill over into several different systems where social partners, authorities and decision makers should work together to reach solutions. The study is commissioned by the Nordic Transport Workers' Federation NTF, which is a federation of 41 trade unions representing transport workers in the Nordic region. All affiliated were invited to participate in the study.

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