

# NATIONAL STRATEGY

2025-2035

for Poverty Reduction  
and Social Inclusion.



---

## Workers in the Gig, Platform Economy and Poverty

Working Paper to the Poverty Reduction and Social Inclusion Strategy: 2025-2035

### Appendix 08

Date: November 2023  
Version: Final

		Page
01.	Introduction	
02.	Labour Actors and Migrants in the Platform Economy and Temporary Work Agency Sector	
02.1	Quantifying the Number of Labour Actors in the Platform Economy and Temporary Work Agency Sector	
02.2	Migrant Workers in the Platform Economy and Temporary Work Agency Sector	
03.	EU Regulatory and Social Protection Framework for Platform Operators and Temporary Work Agencies	
03.1	Labour Actors in the Platform Economy	
03.2	Persons Employed by Temporary Work Agencies	
03.3	Regulating Recruitment Fees and Related Costs of Migrants Engaged by Platform Operators and Temporary Work Agencies	
04.	Labour Protection Measures Introduced in Malta to Regulate the Platform Economy and Temporary Work Agencies	
04.1	Posting of Workers in Malta	
04.2	Transparent and Predictable Working Conditions	
04.3	Digital Platform Delivery Workers	

Tables

01.	Definition of the Platform and Temporary Agency Sectors
02.	Access to Social Protection for Self-Employed as of 2018
03.	Restrictions applied by MS concerning TWA work as of 2018
04.	EU legislation on specific working and employment conditions for temporary agency workers as of 2018
05.	List of related recruitment costs

Figures

1.a	Share of the population (%) providing goods and services at the platform
02.	Share of temporary employees in the total number of employees, persons aged 20-64 years, by citizenship, 2019
03.	Share of temporary employees in the total number of employees, persons aged 15-24 years, by citizenship, 2019
04.	Share of part-time employment in total employment, persons aged 20-64 years, by citizenship, 2019
05.	Share of self-employed persons in total employment for the population aged 20-64 years by citizenship, 2019

<b>EC</b>	European Commission
<b>EIRA</b>	Employment and Industrial Relations Act
<b>EP</b>	European Parliament
<b>EU</b>	European Union
<b>EUC</b>	EU citizens
<b>GE</b>	Gig Economy
<b>JRC</b>	Joint Research Centre
<b>LMI</b>	Labour Market Intermediary
<b>MS</b>	Member State
<b>NSO</b>	National Statistics Office
<b>NMW</b>	National minimum wage
<b>PE</b>	Platform Economy
<b>PO</b>	Platform operator
<b>PWR</b>	Platform workers
<b>P/T</b>	Part-time
<b>RA</b>	Recruitment agencies
<b>S/E</b>	Self-employed
<b>TCN</b>	Third-country national
<b>TWA</b>	Temporary work agency
<b>TWAE</b>	Workers employed with temporary work agencies
<b>UK</b>	United Kingdom



## 01. Introduction

This document complements the working paper titled 'Migrants, Poverty and Inclusion'.

The world of work has undergone tremendous changes in recent years. In the European Union (EU), technological, economic and societal developments have profoundly impacted production processes and the nature of work. Along with these developments, there has been a rise in new, non-standard employment forms, which go hand in hand with increased flexibility, the wider application of advanced information and communication technologies, and the changed relevance of specific occupations and sectors. Two key emerging sectors are the platform economy (PE) and the temporary work agency (TWA) sector (also referred to as recruitment agencies or labour market intermediaries) and the new form of work they have spawned.<sup>1</sup> **Table 01** presents the definition of these new sectors.

**Table 01: Definition of the Platform and Temporary Agency Sectors**

Sector	Definition
Platform Economy	<p>Digital work platforms that provide online peer-to-peer intermediation through which users can have temporary access to other users' services and the payment is made through the platform". Individuals who offer labour on an online talent platform are called online talent platform labour suppliers.<sup>2</sup></p>
	<p>The main traded good by Platform operators (PO) is labour – that is, labour actors who are paid for each task they perform invariably co-ordinated through an app that serves as a platform to connect labour actors to clients, not the material or capital good itself, sales platforms (like eBay) or platforms on which access to accommodation is provided (like Airbnb).</p> <p>Many firms now rely on a pool of external service providers available 24*7 to top up their workforce at peak periods or to bring in missing expertise for a limited period. Today's employment market increasingly relies on platform economy workers: individuals who rely on internet-enabled platforms to find one-off tasks - from translation to delivering food and construction work - for all or part of their income.</p> <p>The PE is called the Gig Economy (GE). When applied to the PE, the GE normally has a negative connotation as it is often associated with precariousness.<sup>3</sup> This is because labour actors in the PE in sectors such as food delivery and taxi service are often in certain economic sectors that have recently been subject to national sector regulations, including Member State (MS), involving specific rules on employment status, labour conditions, and income tax that are designed for traditional based work – one employer on a 40 hour week.<sup>4</sup></p>
	<p>There is no consistency in determining the employment status of labour actors in the PE. Some MS favour strict labour regulations, others try to define "a third category of workers" and struggle to attract innovators. In countries such as</p>

<sup>1</sup> Pg i, Lenaerts, K., et al., Online talent platforms, labour market intermediaries and the changing world of work, Independent study prepared by CEPS and IZA for the World Employment Confederation-Europe and UNI Europa, 2018.

<sup>2</sup> Pg 18, Lenaerts, K., and Wyaert, W., The platform economy and precarious work, Policy Department for Economic, Scientific and Quality of Life Policies, Directorate-General for Internal Policies, on behalf of the European Parliament's Committee on Employment and Social Affairs, European Parliament.

<sup>3</sup> Pg 69, Dazzi, D., Gig Economy in Europe, Italian Labour Law e-Journal Issue 2, Vol. 12, 2019.

<sup>4</sup> Pg 29, Hauber, H., et al., Thematic Review 2021 on Platform work: Synthesis report, European Centre of Expertise (ECE) in the field of labour law, employment and labour market policies, Directorate - General for Employment, Social Affairs and Inclusion, European Commission, 2021.

	<p>Germany, Austria, Denmark, Finland, France, Sweden, and Switzerland, labour actors in the PE are considered employees of a platform operator (PO) with all legal consequences. In others, such as the Benelux, Spain, Hungary, Italy, Iceland, Norway, Poland, Portugal, and the Czech Republic, certain restrictions have been introduced on POs in labour matters, with a trend towards creating common standards. Yet again, other MSs, such as Bulgaria, Cyprus, Croatia, Slovakia, Estonia, Greece, Latvia, Lithuania and Romania, do not have sufficiently defined legislation on the status of workers in the PO, being able to equate to the figure of self-employed workers. This development is discussed further in this document.</p> <p>PO in Malta includes food delivery such as Bolt and Wolt and taxi services such as Uber and eCab.</p>
<p><b>Temporary Work Agency</b></p>	<p>Any natural or legal person who, in compliance with national law, concludes contracts of employment or employment relationships with temporary agency workers to assign them to temporary user undertakings to work there under their supervision and direction. A temporary agency worker is a worker with a contract of employment or an employment relationship with a temporary work agency to be assigned to a user undertaking to work temporarily under its supervision and direction.<sup>5</sup></p> <p>A TMW pay is a posted worker of a foreign company who normally does not work in Malta.</p> <p>Temporary work agencies (TWA) are also referred to as a labour market intermediary (LMI) or recruitment agency (RA). A TWA is responsible for identifying an employee, recruiting them, if foreign, administering relocation, entry and VISA requirements, and administering payroll, social security payments, income tax payments, etc, of such employees.</p> <p>In Malta, TWA is active in the health, elderly, cleaning, tourism, and administration sectors.</p> <p>When appropriately regulated, TWA plays an important role in the efficient and equitable functioning of labour markets by matching available jobs with suitably qualified workers. However, international and national evidence shows that unscrupulous recruiters take significant resources away from workers by charging recruitment fees and broader economic exploitation.<sup>6</sup></p>

## 02. Labour Actors and Migrants in the Platform Economy and Temporary Work Agency Sector

### 02.1 Quantifying the Number of Labour Actors in the Platform Economy and Temporary Work Agency Sector

#### (a) Labour Actors in the Platform Economy

The lack of available data makes it difficult to provide estimates on the overall number of (active) platform workers (PWR) in the EU, including Malta, and even more so for the number of (active) PWs by type.<sup>7</sup> The most cited data source to date is the Joint Research Centre (JRC) 's COLLEEM survey, which found that in the 14 MS covered:

<sup>5</sup> Pg 18, Lenaerts, K., and Wayaert, W., The platform economy and precarious work, Policy Department for Economic, Scientific and Quality of Life Policies, Directorate-General for Internal Policies, on behalf of the European Parliament's Committee on Employment and Social Affairs, European Parliament, 2020.

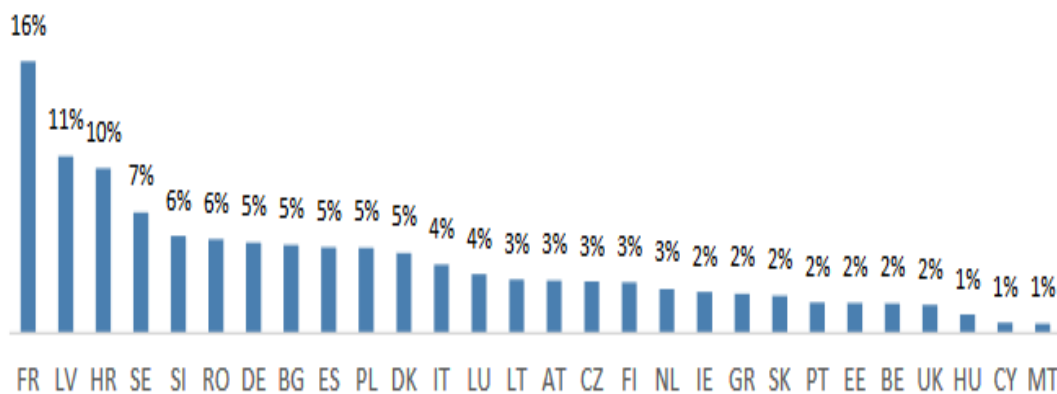
<sup>6</sup> Pg xi, A global comparative study on defining recruitment fees and related costs: Interregional research on law, policy and practice, International Labour Organisation, 2020.

<sup>7</sup> Ibid.

- (i) An average of 10% of the adult population had performed platform work (PW).<sup>8</sup>
- (ii) 2% of the adult population earned over 50% of their income through PW or worked over 20 hours weekly via platforms.<sup>9</sup>
- (iii) The highest peaks in the United Kingdom (UK), where for about 4% of the population, the income from work is determined for more than 50% by the work of the platforms, and in Spain, with greater dispersion of work, and with lowest peaks in Finland, Slovakia and Hungary where the share of those who find in the GE the main employment is marginal.<sup>10</sup>

The **Figure** below presents an estimated share of the population PW based on the 2016 Eurobarometer. Malta ranks last, at 1%.

**Figure 01: Share of the population (%) providing goods and services at the platform**



*Note: The figure above shows the share of the population that has provided goods and/or services via collaborative platforms.*

*Source: Authors' elaboration based on Eurobarometer (2016).*

It is pertinent to add that the European Commission (EC) in 2021 stated that the PE is 'growing' with 'around 11% of the EU workforce' providing services through a platform and that the COVID-19 crisis 'accelerated digital transformation and expansion of platform business models'.<sup>11</sup> A similar pattern was experienced in Malta, where the food delivery and taxi service sectors in PE increased significantly post-COVID-19. As discussed below, obtaining data on persons involved in the PE is a significant challenge.

A Thematic Review of the PE carried out by the EC in 2021 concludes that:<sup>12</sup>

- While people working through platforms are often young, male, and highly educated, their profile is influenced by the type of PW they consider.
- The employment status of PR is predominantly focused on the most visible (on-location) personal transportation and food delivery sectors.
- Women are more widely represented in the personal and household services and the care sector.

<sup>8</sup> Pg 18, Ibid.

<sup>9</sup> Pg 18, Ibid.

<sup>10</sup> Pg 72, Dazzi, D., Gig Economy in Europe, Italian Labour Law e-Journal Issue 2, Vol. 12, 2019.

<sup>11</sup> Questions and Answers: First stage social partners consultation on improving the working conditions in platform work, European Commission, 2021. Accessed on 9th November 2023: file:///C:/Users/Admin/Downloads/Questions\_and\_Answers\_\_First\_stage\_social\_partners\_consultation\_on\_improving\_the\_working\_conditions\_in\_platform\_work.pdf

<sup>12</sup> Pp 2-3, Hauber, H., et al., Thematic Review 2021 on Platform work: Synthesis report, European Centre of Expertise (ECE) in the field of labour law, employment and labour market policies, Directorate - General for Employment, Social Affairs and Inclusion, European Commission, 2021.

- Few MS have taken legislative action to introduce rights for people working through platforms or to regulate their employment status.
- POs are increasingly considered as (potential) TWA.

The NSO reports that in 2022, 4.8% of persons aged between 15 and 64 carried out digital platform work or services in the preceding 12 months. It adds that the share of males who performed digital platform work in the preceding 12 months was almost double that of females (64.2% and 35.8%, respectively). Furthermore, the larger share of persons who carried out gig-related work in the preceding year had a post-secondary level of education (42.5%).<sup>13</sup>

A further 31.1% had a tertiary level of education while 26.4% had a secondary level or less education. The NSO states that the most common internet platform was taxi services, with 40% of all persons conducting digital platform employment in 2022. Renting out accommodation (32.3%) and transport services to deliver food or other goods (31.9%) were the second and third most common platforms.<sup>14</sup>

One out of every five persons performing digital platform work selling goods over the Internet, and 14.8% created content such as videos or texts for pay or profit through an Internet platform or app. The NSO does not state the share of migrants amongst those surveyed who are Third Country Nationals (TCN). Anecdotal evidence suggests that the majority of the three sectors identified above are TCNs.<sup>15</sup>

#### (b) Employees with Temporary Worker Agencies

Eurostat estimates that in 2020, the EU average number of persons working with a TWA was 7.6% across MS. According to the Department of Industrial and Employment Relations, over 200 recruitment agencies are registered in Malta.<sup>16</sup> Actual numbers of persons employed and contracted out by TWA could not be attained when writing this Working Paper.

#### (c) Impact of Lack of Transparency and Data concerning workers in the Platform Economy or Temporary Worker Agencies

The lack of transparency and data of labour actors in the PE and TWA sector in Malta has the following results:

- A lack of transparency increases the vulnerability of labour actors in either sector to abuse, as they generally have no means to independently verify the availability of job opportunities and work contracts in Malta promised by the POs and TWAs
- The data gaps make it difficult for Malta to measure the impact of labour actors in either sector, including economic dependents, rights and labour standards, and hence significantly impair evidence-based policy and strategy design.
- The lack of reliable data impedes the effective enforcement of POs and TWAs to meet the regulatory requirement to operate in Malta and the conditions offered to the persons they engage.
- The information deficit caused by data gaps leads to ill-informed political and public discourse. The increase in Malta's demographics between 2013 and 2023 was fuelled by cheap labour achieved through the increased role that POs and TWAs play in Malta's economy.

<sup>13</sup> [https://nso.gov.mt/statistical\\_insights/digital-platform-employment-2022/](https://nso.gov.mt/statistical_insights/digital-platform-employment-2022/).

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup>

<https://dier.gov.mt/en/Industrial%20Relations/Employment%20Agencies/Documents/EA%20List%20as%20at%2026.10.2023.pdf>.

## 02.2 Migrant Workers in the Platform Economy and Temporary Work Agency Sector

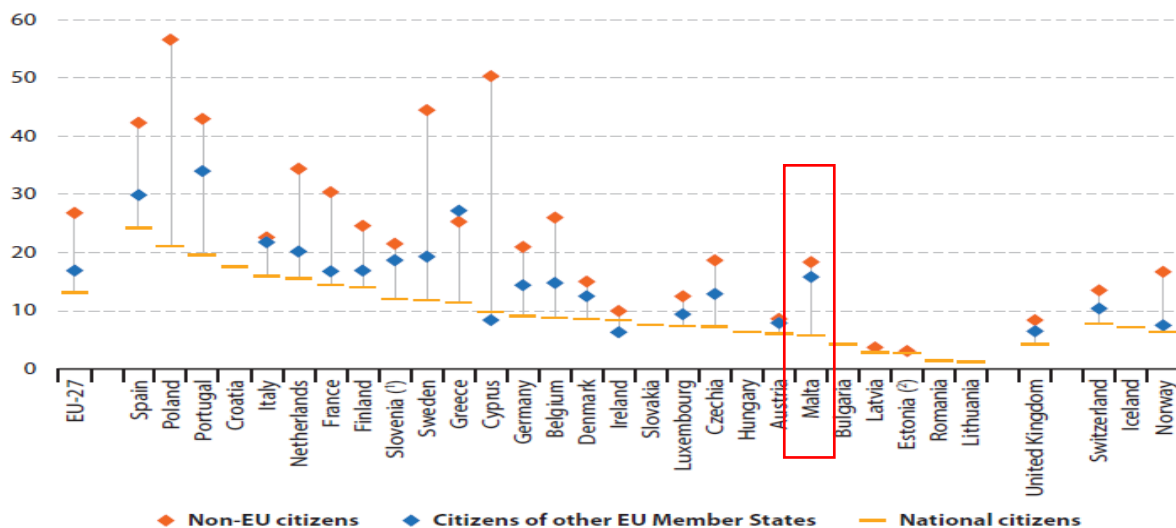
As stated above, anecdotal evidence strongly suggests that a large number of labour actors in Malta in the PE and TWAs are migrants. Studies show growing evidence that migrant workers likewise provide a large share of the labour-power driving gig platforms in cities ranging from New York to Paris and Bogotá to Cape Town.<sup>17</sup>

Even in India and China, countries with huge domestic labour markets, it is primarily domestic migrants<sup>1</sup> who provide key gig economy services such as ride-hailing, domestic and care work, and food delivery in major cities.<sup>18</sup> The research suggests that it increasingly seems likely that, without a continuous influx of migrants, platform companies would have trouble maintaining their labour supply in many of their key markets across the globe.<sup>19</sup> It is posited that migrant labour serves an infrastructural role for these platforms – vitally important to their business model’s viability as the steady influx of investment capital.<sup>20</sup>

The number of migrants with temporary contracts, part-time work, and self-employment can be, in the absence of data, a proxy for the number of migrants active in Malta in the PE or the TWA sector.

The share of temporary employees in Malta among all employees in 2019, presented in **Figure 02**, was approximately 6% for nationals. The corresponding shares for migrant employees were significantly higher – approximately 19% for TCNs and 18% for EUCs.

**Figure 02: Share of temporary employees in the total number of employees, persons aged 20-64 years, by citizenship, 2019<sup>21</sup>**



**Figure 03** presents the share of temporary employees in the total number of employees for young people (aged 15-24 years). The share of temporary migrant employees in Malta<sup>22</sup> in 2019 was approximately 32% for TCNs and 28 for EUCs.

<sup>17</sup> Pg 1100, Doorn van, N, et al., Migration and migrant labour in the Gig economy: An intervention, Work, Employment and Society, Vol. 37 (4), 1099-1111, 2023.

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> Pg 45, Migration Integration Statistics, 2020 Edition, Eurostat, European Commission, 2021.

<sup>22</sup> Eurostat note that data relating to TCNs and EUCs with limited reliability.



**Figure 03: Share of temporary employees in the total number of employees, persons aged 15-24 years, by citizenship, 2019<sup>23</sup>**

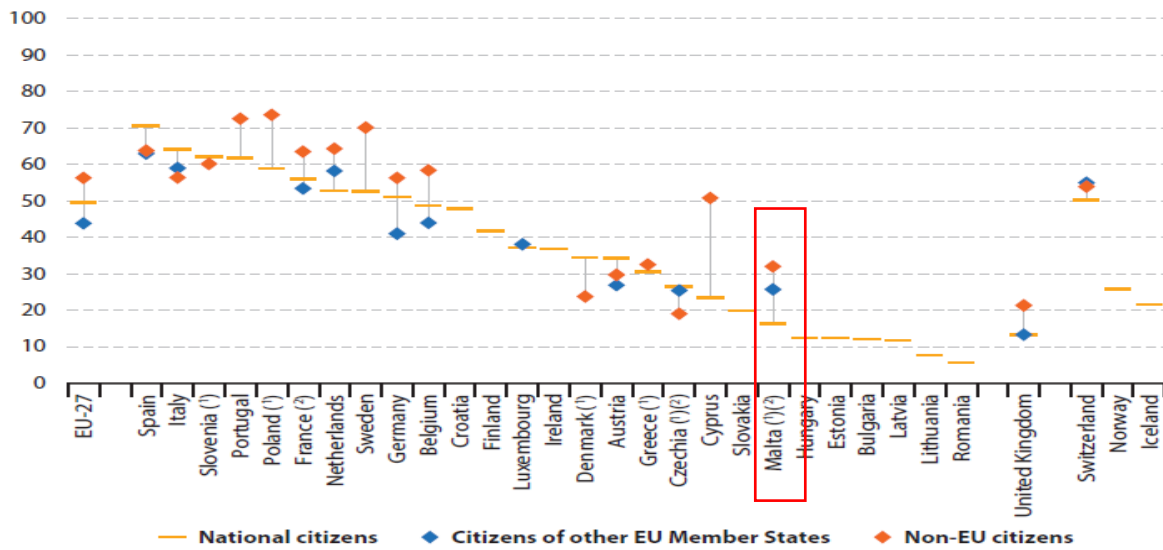
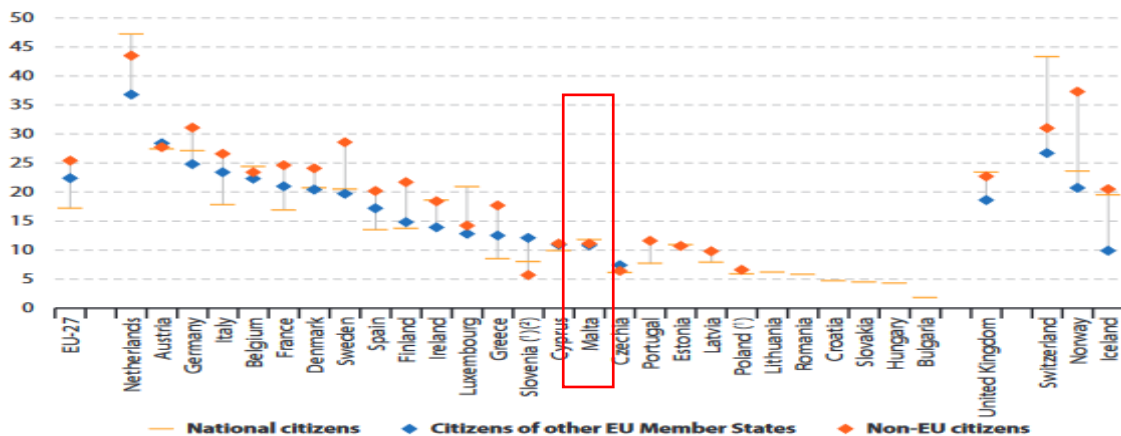


Figure 04 presents the share of persons in part-time (P/T) employment in total employment. The share of TCN migrants at approximately 7% is marginally higher than that of EU citizens (EUC) migrants.

**Figure 04: Share of part-time employment in total employment, persons aged 20-64 years, by citizenship, 2019<sup>24</sup>**



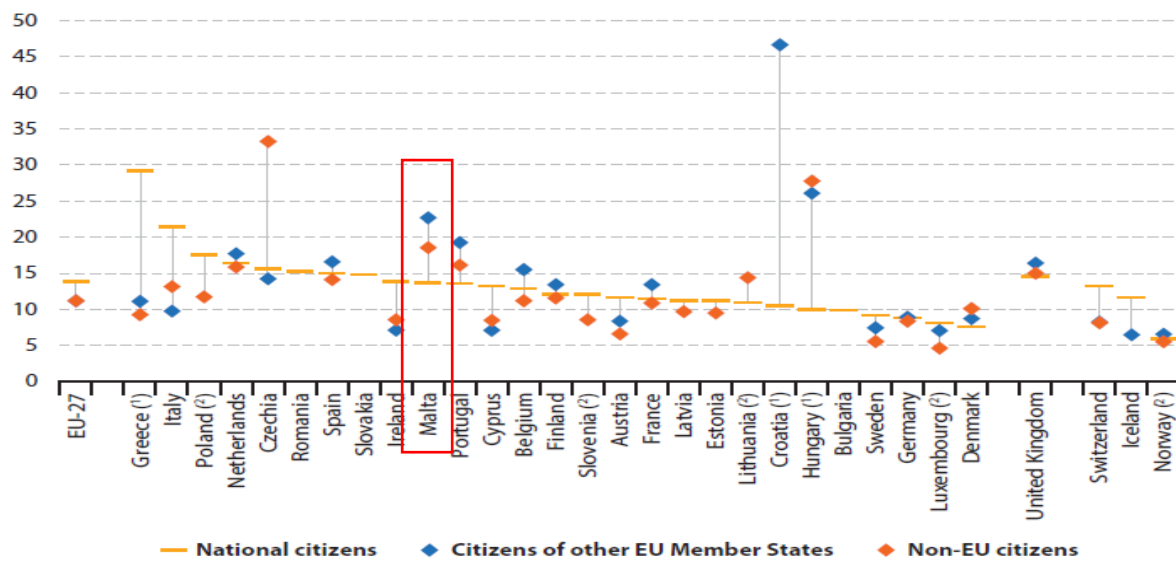
Note: ranked on share of part-time employment in total employment for citizens of other EU Member States. Bulgaria, Croatia, Lithuania, Hungary, Romania and Slovakia: citizens of other EU Member States and non-EU citizens, not available. Estonia, Latvia, Poland and Portugal: citizens of other EU Member States, not available.  
 (\*) Non-EU citizens: data with limited reliability.  
 (†) Citizens of other EU Member States: data with limited reliability.  
 Source: Eurostat (online data code: lfsa\_eppgan)

Figure 05 presents the number of self-employed persons. As can be seen, the share of migrant TCNs working as self-employed in Malta stood at nearly 20%, whilst concerning EUCs, this stood at approximately 23%.

<sup>23</sup> Pg 47, Ibid.

<sup>24</sup> Pg 48, Ibid.

Figure 05: Share of self-employed persons in total employment for the population aged 20-64 years by citizenship, 2019<sup>25</sup>



The risks of migrants engaged by POs and TWAs to exploitation are greater than those of migrants employed in traditional economic sectors given that migrant workers in these sectors.<sup>26</sup>

- Invariably pay relatively large sums to POs and TWAs to access temporary jobs in destination countries, leaving them indebted. An ILO 2020 study finds that recruitment costs are a significant subset of labour migration costs, and survey data has shown that recruitment costs can amount to nine months or more of average monthly earnings.<sup>27</sup>
- Tend to be engaged only by one PO or TWA and, hence, are tied to that one job and employer by contracts and visas, which makes them inherently vulnerable. If the PO or TWA terminates their employment because they complain of wage theft or abuse, for example, they lose the right to be in the destination country, along with any financial investment made to work abroad, including the payment of recruitment / engagement fees.
- More likely to face fraud, discrimination, economic coercion, retaliation, blacklisting, and, in some cases, forced labour, indentured servitude, debt bondage, and human trafficking. Evidence shows that recruitment fees significantly increase the risk to workers of experiencing forced labour, debt bondage and human trafficking. The ILO found that the “costs of coercion were approximately US\$21 billion, with the total amount of underpaid wages estimated to be US\$19.6 billion, with the remaining US\$1.4 billion attributed to illegal recruitment fees.<sup>28</sup>
- Are paid the minimum wage.
- Have no path to permanent immigrant status or naturalisation. Thus, their temporary status denies them the chance to remain or integrate.
- Being in low-wage employment, they may not meet the income thresholds to be provided with a work permit or access to services.

<sup>25</sup> Pg 43, Ibid.

<sup>26</sup> Pp 2-3, Costa, D., and Martin, P., Temporary labor migration programs, Governance, migrant worker rights, and recommendations for the U.N. Global Compact for Migration. Economic Policy Institute, 2018.

<sup>27</sup> Pg 2, A global comparative study on defining recruitment fees and related costs: Interregional research on law, policy and practice, International Labour Organisation, 2020.

<sup>28</sup> Pg 2, Ibid.

Research shows that “layers of intermediaries and collusion between local and foreign agents act to the detriment of migrant workers”. As stated above, many workers borrow heavily to pay fees and charges related to their search for employment. Low-skilled workers, especially in construction, agriculture and domestic work, tend to be particularly vulnerable to high recruitment costs.<sup>29</sup>

Moreover, to recover their initial costs as well as support their families in their home country and accumulate some savings, migrant workers may risk overstaying their visas or permitted stays and become even more vulnerable to exploitative practices. Failure to pay debts can result in severe personal and social impacts, and eventually, workers may find themselves trapped in harsh working conditions, low-wage work and abusive situations. Often, workers do not know what specific costs they are being charged or the reasons that drive up individual cost components.<sup>30</sup>

Despite high migration costs, the desire and intention to seek foreign employment are unabated as they see it as the only possibility to advance their economic and social position. Migrants are ready to face such and other risks in being engaged by a PO or TWA as it provides them with an entry point to the labour market in Malta to which they would otherwise have no access, potentially facilitated by the fact that POs may be lax concerning their enforcement of formal requirements such as background checks and business licences. This is especially true for undocumented migrants – migrants whose visa or work permit may have expired or have had their employment terminated, and thus engagement with a PO or a TWA provides them with an income opportunity.

### **03. EU Regulatory and Social Protection Framework for Platform Operators and Temporary Work Agencies**

One (Principle 12) of the 20 principles of the European Pillar of Social Rights society states that “regardless of the type and duration of their employment relationship, workers, and, under comparable conditions, the self-employed, have the right to adequate social protection”.<sup>31</sup> In practice, however, applying this principle may not be so straightforward.

Traditionally, social security schemes have been designed with a “stable, open-ended and direct employment relationship between a dependent full-time employee and a unitary employer” as the baseline model. This model, however, no longer fits the reality of the world of work today. New, non-traditional employment forms, including work with a PO, challenge the model where access to social protection is generally tied to employment status, which is not yet clarified in the case of the PE. This results in several complexities.<sup>32</sup>

#### **03.1 Labour Actors in the Platform Economy**

The proliferation of platform operators presents various challenges to the traditional world of work. While PO offers job seekers practical solutions to earn money, it raises several legal and ethical questions on how they interact with individuals and operate in their ecosystem. Despite the advantages to workers regarding flexible work with few entry barriers, the emerging PW lack clarity regarding legal protections and obligations.<sup>33</sup>

In contrast with the PE, there is a clear, specific regulatory framework for TWA, primarily from Directive 2008/104/EC on temporary agency work. Labour suppliers in the PE tend to be classified as self-employed (S/E) rather than employees. The definition of S/E is far from standardised across Europe. The European Parliament (EP) identifies four clusters of nations concerning access to social protection the S/E enjoy. These are presented in **Table 02**. **Table 02** shows the S/E can enjoy minimal to comprehensive social protection across the EU. The norm, however, is for the S/E to lack access to benefits, especially compared to employees. Moreover, S/E are typically only covered for some risks.<sup>34</sup>

---

<sup>29</sup> Pg 3, Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> <https://ec.europa.eu/social/main.jsp?catId=1606&langId=en>.

<sup>32</sup> Pg 50, Costa, D., and Martin, P., Temporary labor migration programs, Governance, migrant worker rights, and recommendations for the U.N. Global Compact for Migration. Economic Policy Institute, 2018.

<sup>33</sup> Pg 33, van Doorn, N., et al., Migration and Migrant Labour in the Gig economy: An intervention, Work, Employment and Society, Vol. 37(4) 1099–1111, 2023.

<sup>34</sup> Pp 51-55, Ibid.

**Table 02: Access to Social Protection for Self-Employed as of 2018<sup>35</sup>**

Cluster	Category	Protection	Countries
01.	Full-to-high access	Covered by all insurance-based schemes identified by EP.	HR, HU, IS, LU, RS, SI
02.	High-to-medium access	Not required to be covered under one or more insurance-based schemes, employees must be insured under all of them; however, the S/E in these countries can voluntarily opt into the scheme(s) concerned.	AT, CZ, DK, ES, FI, PL, RO, SE
03.	Low-to-no access	Cannot opt into one or more insurance-based schemes, while salaried employees are mandatorily covered by the scheme(s) concerned.	BE, CH, CY, EL, FR, IT, LI, LT, LV, MK, <b>MT</b> , NO, SK, TR
04.	Patchwork of medium-and-low access	Combination of features of clusters 2 and 3. The S/E are not required to be insured under one or more insurance-based schemes, while employees are mandatorily insured. But the S/E can opt into some schemes while being excluded from others	BG, DE, EE, IE, NL, PT, UK

As stated in the introduction to this document, a key matter concerning access to social protection and employment rights in the PE is the relationship of the 'labour' actor with the PO: whether they are employees or S/E persons providing a service to the PO. How a country determines the relationship between the 'labour actor and the PO' will result in significant negative impacts; for example, 'unemployed' drivers engaged by a PO who are not classified as employees are outside the safety net of basic labour law protection if they have been classified as a S/E contractor.

There have been several milestone cases in foreign courts to determine the status of the 'labour actor' vis-a-vis the PO: the Uber case in the UK, the Deliveroo case in the Netherlands, and the Glovo case in Spain. Concerning the Uber case, for example, the Supreme Court in the UK decided that the drivers providing a service to Uber as a PO were workers. This case highlights the importance of looking past formal agreements and into the actual nature of the practical arrangement between the PO and its labour actors, which creates a principle of law for a court to decide on the classification of labour actors in the PE.<sup>36</sup> While it is pertinent to state that there are many examples of Maltese courts looking beyond the text of labour agreements and going to the material features, this has not been the case in the instances mentioned here.

In 2021, the EC issued a proposed Directive on improving working conditions for labour actors with POs. The proposed Directive seeks to bring legal clarity to the employment classification of labour actors with POs, responding to growing pressure to address the issue at the EU level.<sup>37</sup> The general objective of the proposed Directive is to improve the working conditions and social rights of personal labour actors through platforms, including supporting the conditions for the sustainable growth of digital labour platforms in the EU. The specific objectives through which the general objective will be addressed are:<sup>38</sup>

01. Ensure that people working through platforms have – or can obtain – the correct employment status in light of their relationship with the digital labour platform and gain access to the applicable labour and social protection rights.

<sup>35</sup> Pp, 48-49, Ibid.

<sup>36</sup> Kerikmae, T., and Kajander, A., Gig economy workers in the European Union: towards change in their legal classification, *Revista CIDOB d'Afers Internacionals*, n.º 131, p. 117-136, 2021.

<sup>37</sup> Proposal for a Directive of the European Parliament of the Council on improving working conditions in platform work, European Commission, Brussels, 9.12.2021, COM(2021) 762 final.

<sup>38</sup> Pg 3, Ibid.

02. Ensure fairness, transparency and accountability in algorithmic management in the PW context.
03. Enhance transparency, traceability and awareness of developments in PW and improve enforcement of the applicable rules for all people working through platforms, including those operating across borders.

The EU Council adopted its position on the proposal on 12<sup>th</sup> June 2023. The proposal introduces two key improvements for platform workers:<sup>39</sup>

- (a) **Employment status:** The proposed Directive seeks to ease the access of people working in the PE to the legal employment status that corresponds to their actual working arrangements. It provides that a person is presumed to be a worker if three of the seven criteria below are fulfilled.
- Determines upper limits for the level of remuneration.
  - Requires the person to respect certain rules concerning appearance and conduct towards the recipient of the service or performance of work.
  - Supervises the performance of work, including by electronic means.
  - Restricts the freedom to choose one's working hours or periods of absence.
  - Restricts the freedom to accept or refuse tasks.
  - Restricts the freedom to use subcontractors or substitutes.
  - Restricts the possibility of building a client base or performing work for any third party.

The application of the legal presumption results in the obligation of the PO to prove that there is no employment relationship in a proceeding where the correct employment status of the person working for the platform is at stake. Once established in such a proceeding that a person is in an employment relationship, the person should enjoy those labour and social rights that come with that relationship. The applicable labour and social rights, however, are dependent on national systems:

- A minimum wage.
  - Collective bargaining.
  - Working time and health protection.
  - Paid leave.
  - Improved access to protection against work-related accidents.
  - Unemployment and sickness benefits.
  - Contribution-based old-age pensions.
- (b) **Algorithm management:** The Directive intends to increase transparency regarding the use of algorithms by digital labour platforms:
- Ensure human monitoring of working conditions.
  - Give the right to contest automated decisions (to employees and genuinely self-employed workers).

---

<sup>39</sup> Accessed on 10<sup>th</sup> November 2023: <https://www.consilium.europa.eu/en/policies/platform-work-eu/>.

### 03.2 Persons Employed by Temporary Work Agencies

As stated above, contrary to persons engaged in the PE, there is a clear, specific regulatory framework for TWA, primarily from Directive 2008/104/EC on temporary agency work. This Directive was required to have been implemented at the MS level by the end of 2011. Directive 2008/104/EC establishes the principle of equal treatment of agency workers with employees in user undertakings, and it creates a framework for the use of temporary agency work. Besides Directive 2008/104/EC, there is Directive 91/383/EC supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship, which governs health and safety. Certain ILO conventions also apply to temporary work agencies, of which ILO Convention 181 mainly addresses and regulates private employment agencies and temporary agency work.<sup>40</sup> **Table 03** presents the restrictions applied in MSs concerning TWA work.

**Table 03: Restrictions applied by MS concerning TWA work as of 2018<sup>41</sup>**

Type of Regulation	With Restrictions	No Restrictions
<b>Restricting the use of TWA in strike situations</b>	<p><b>By law:</b> FR, IT, ES, the NL, AT, SI, RO, PL, BE, PT, SK, CZ</p> <p><b>By general collective agreements:</b> LU, DK, SE, FI</p> <p><b>No restrictions if specific requirements are fulfilled:</b> HU, DE, UK (although the hirer does not influence the supply of TWA)</p>	BG, CY, EE, IE, LV, and <b>MT</b>
<b>Restrictions in other specific situations / reasons justifying assignments</b>	IT, BE, FR, LU, ES, PT, RO, SI, EL, PL	BG, CY, DK, EE, FI, DE, HU, IE, LV, LT, <b>MT</b> , NL, SK, UK
<b>Restrictions on the maximum length of assignments and / or number of extensions</b>	BG, BE, CZ, DE, FR, EL, IT (max. of 6 extensions), LU, PL, PT, RO, SI, ES	AT, CY, DK, EE, FI, HU, IE, LV, LT, <b>MT</b> , NL, SK, SE, UK
<b>Sector-specific restrictions</b>	<p><b>Construction:</b> DE, PT</p> <p><b>Public administration:</b> AT (Civil Service), BE, EL, HU, ES</p> <p><b>Other sectors:</b> AT (public hospitals/nursing institutions), BE (removal firms and furniture warehouses, inland waterways), PL (dangerous jobs, security guards);), FL (security guards, some restrictions for doctors and teachers), GR (dangerous work), NL (restrictions for bus drivers and transportation of goods)</p>	All other MS

<sup>40</sup> Pg 45, Ibid.

<sup>41</sup> Pp, 48-49, Ibid.

TWAEs are granted comparable access to unemployment benefits in most MSs. Nevertheless, MSs establish different eligibility criteria to qualify for social benefits, such as a minimum number of workers to be granted unemployment benefits. TWAEs, therefore, are potentially at a disadvantage, particularly when employment spells are short or interrupted. Due to the nature of temporary agency work – a flexible form of short-term employment – some TWAEs may not meet the criteria necessary to qualify for social benefits. Following the idea that the job search is frictional and costly (e.g. time-consuming, mismatch), TWAEs are more likely to face periods of unemployment, potentially making them more vulnerable to certain risks.<sup>42</sup>

The same is true for sick benefits and access to healthcare. Generally speaking, a TWAE is granted nearly identical access to these benefits. TWAEs are usually less experienced in their working environment and potentially more likely to incur a higher risk of injuries at work, creating a need for full access to health care and sick benefits. However, while injuries related to performing work are covered clearly under the Directive, accumulating paid sick often requires accumulating working days, potentially reducing the paid sick days that a TWAE enjoys in some contexts.<sup>43</sup>

Pension benefits are not an exception to this pattern. In Malta, like a national, a TWAE must accrue 10 years of paid contributory benefits if born before 1961 and 12 years if born in and after 1962. Thus, most TWAEs do not, whilst working in Malta, accrue anywhere near the number of paid contributions to qualify for a pension.<sup>44</sup>

**Table 04: EU legislation on specific working and employment conditions for temporary agency workers as of 2018<sup>45</sup>**

General Category	Specific Topic	EU Regulation
<b>Basic employment and working conditions</b>	Working time, overtime, breaks, rest period, night work, holidays and public holidays	2008/104/EC: Principle of equal treatment, but derogations are possible by collective agreements at the national level.
	Pay	
<b>Social protection</b>	Health care	Rights are provided at the national level.
	Unemployment benefits	
	Sick benefit	
	Pensions benefits	
	Dismissal	
<b>Health and Safety</b>	Specific provisions for health	Directive 91/383/EE.
	Specific provisions for safety	
<b>Access to employment, collective facilities and training</b>	Access to employment	2008/104/EC: “informed of any vacant posts” and “ensure that no clauses prohibiting conclusion of a contract of employment or employment relationship between the user undertaking and the temporary agency worker.”
	Collective facilities	2008/104/EC: Given access to amenities or collective facilities (canteen, transport services, etc.) unless difference of treatment for objective reasons

<sup>42</sup> Pg 57, Ibid.

<sup>43</sup> Pg 57, Ibid.

<sup>44</sup> Ibid.

<sup>45</sup> Pp, 48-49, Ibid.

	Access to vocational Training	2008/104/EC: No specific rights but take suitable measures to improve (1) access to training, and even in the period between assignments; (2) access to training for user undertakings' workers. Bi-partite training funds have been created in many countries.
<b>Representation / Social Dialogue</b>	Access to representative Bodies	The possible rights to representative bodies are regulated at the national level. 2008/104/EC: 1) TPW must be taken into account to calculate the threshold above which bodies representing workers are to be formed; 2) TPW can also be taken into account for user undertaking threshold; 3) User undertakings must provide suitable information on the use of TPW to bodies representatives.

### 03.3 Regulating Recruitment Fees and Related Costs of Migrants Engaged by Platform Operators and Temporary Work Agencies

An ILO review of policies introduced by governments to regulate recruitment fees and costs by POs and / or TWAs shows that governments seek to achieve this by adopting one or more of the following policies:<sup>46</sup>

- Articulating a general policy statement that allows TWAs or POs to charge fees for their services.
- Capping of the fees, prescribing a maximum amount to be paid by the worker or job seeker.
- Detail costs and charges that should not be charged to the workers or describe which costs are to be charged to employers, workers, and labour recruiters.

Where labour legislation is applied to determine the type of fees that a TWA charges an employee, research suggests convergence in several areas, as presented in **Table 05**.

**Table 05: List of related recruitment costs<sup>47</sup>**

Workers' documentation	Country of destination government requirements
01. Passport	17. Visa
02. Police clearance	18. Work permit
03. Birth certificate	19. Levy
04. School record/education credentials	Travel and Transportation
05. Skills certificate for the job applied for/ certificate of occupational competency	
Medical	20. Internal travel and accommodation while processing
06. Medical test	21. Outward international air travel
07. Vaccinations	22. Local transport from the airport to the place of work
Skills tests and additional training	Exceptional costs
08. Skills test	23. Breach of contract
09. Language testing	24. Security deposits and other collateral
10. Additional tests (medical or skills)	
Pre-departure and training	Administrative and other costs

<sup>46</sup> Pg 33, A global comparative study on defining recruitment fees and related costs: Interregional research on law, policy and practice, International Labour Organisation, 2020.

<sup>47</sup> Pg 33, Ibid.



11. Pre-departure training 12. Additional training, as needed	25. Notary, attestations and other legal fees (including translation costs, etc.) 26. Photographs
Country of origin government requirements  13. Approval of foreign contracts 14. Contribution to welfare fund 15. Enrolment in social security, health and other national insurance 16. Miscellaneous taxes (airport tax, exit clearance, among others)	Return  27. Return international air travel 28. Allowances for return travel

There are considerable differences in recruitment costs paid by worker migrants along various migration corridors. The cost differences are partially explained by factors related to distance to destination (cross-border or further), social networks (isolated or engaged), and migration policies (restrictive or not). For a single country of destination, workers' costs can vary widely depending on their country of origin. The afore-referenced 2020 ILO study estimates that average costs for a migrant to take up employment in Saudi Arabia ranged from US\$309 paid by workers from the Philippines to US\$769 paid by those from Nepal, US\$1,015 by those from Ethiopia, US\$1,386 by those from India, and US\$4,460 by those from Pakistan. Since the costs workers are willing to incur also depend on what they expect to earn, migrants from Pakistan incurred the highest costs relative to earnings at 10.5 months of income, compared to 0.7 months for the Philippines and 4.5 months for India.<sup>48</sup>

The situation in Malta concerning the employment of migrants by TWAs tends to reflect the findings of the ILO study. In 2023, the media reported that a Philippines agency, operating without a licence, was charging €7,000 (₱420,000 (€7,000) in processing fees, a downpayment of ₱60,000 (€1,000) and an additional ₱100,000 (€1,650) once a work permit was issued) as a processing fee for those hoping to find work in Malta or Poland as hotel workers, cleaners, or waiters.<sup>49</sup> It quotes the Chief Executive Officer of Identity Malta, saying, "We often hear that in foreign jurisdictions, especially in Asia, agents charge up to €12,000 for their services." Other examples of media reporting concerning TCNs being engaged by TWAs include:

- An RA engaged food couriers with an attractive employment contract, only to make them sign a second contract with much less favourable conditions when they arrived in Malta and when the workers resigned because they could not take it anymore, the company informed them they had to pay €4,000 for terminating their relationship with them.<sup>50</sup>
- Despite promising a gross annual salary of around €10,000 for a 40-hour work week before coming to Malta, the actual contract they gave them once they were in Malta specified that work hours only count when the courier delivers.<sup>51</sup>
- Couriers allege they worked 11 hours daily from Monday to Sunday for a month and only managed to earn approximately €600.<sup>52</sup>
- Employees are paid in cash or via Revolut, and while monthly payslips were issued with a salary corresponding to the figures in the contract, the cash sent or given to the courier was way less.<sup>53</sup>

<sup>48</sup> Pg 64, Ibid.

<sup>49</sup> Ellul, D., Foreign workers fleeced by agencies, but Identity Malta can do nothing about it, Times of Malta, 13<sup>th</sup> June 2023. Accessed on 13<sup>th</sup> November 2023: <https://timesofmalta.com/articles/view/foreign-workers-fleeced-agencies-identity-malta-nothing.1037057>.

<sup>50</sup> Zammit, L, M., 'I barely had money to live': How food couriers fell into their employers, trap, Times of Malta, 28<sup>th</sup> August 2022. Accessed on 13<sup>th</sup> November 2023: <https://timesofmalta.com/articles/view/i-barely-money-live-food-couriers-fell-employer-s-trap.977069>

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

- Currently, it can cost up to €4,000 to obtain a job via an agency, and sometimes the figure can be as high as €10,000, according to the Malta Malayalee Association.<sup>54</sup>
- Migrants finding themselves without a job then seek employment in the market while being required to pay up to €180 per month to the agency concerned.<sup>55</sup>
- Employers sometimes do not provide a contract of employment or inform workers of their employment benefits as applicable by law, denying them their rights as workers.<sup>56</sup>
- Allegedly, RAs involved in recruiting couriers had been taking as much as half the couriers' wages, alongside hefty recruitment fees.<sup>57</sup>
- It has been reported that certain RAs enjoying partnerships with certain POs allegedly benefit from exactly 50% of the wages earned by food couriers, most of whom are third-country nationals (TCN) from Southeast Asia and are not paid vacation and sick leave or government bonuses. Couriers earn 50% of the amount they generate, but the wage and payment method varies between each courier. Some report earning €5 or €7 an hour, others say they earn €800 per month, but the majority only retain 50%. Workers are also provided with €150 for fuel.<sup>58</sup>

#### **04. Labour Protection Measures introduced in Malta to Regulate the Platform Economy and Temporary Work Agencies**

Malta has recently introduced legislation to clarify the employment status of persons posted as workers, PWRs, and TWAEs.

##### **04.1 Posting of Workers in Malta**

Malta regulates the posting of workers from an MS, including TCNs, through the Posting of Workers in Malta Regulations, 2016 (SL 452.82). These regulations apply to foreign companies which send posted employees:<sup>59</sup>

- (a) On their account and under their direction, under a contract concluded between the posting company and the party for whom the services are intended.
- (b) To an establishment or an undertaking in Malta owned by the foreign undertaking.
- (c) Being a TWA or RA, hiring a worker to a user undertaking established or operating in Malta, provided an employment relationship exists between the temporary employment undertaking, the TWA / or RA, and the worker during the posting period.

The above conditions are underpinned by the principle that there must be an employment relationship between the undertaking making the posting and the worker during the posting period.<sup>60</sup> The work conditions while working in Malta are comparable to employees at the same place of work.<sup>61</sup> Minimum conditions are governed by Directive 2008/104/EC referred to above.

In July 2020, Malta transposed Directive (EU) 2018/957, which amends Directive 96/71/EC (the main Directive on posted workers). Since 30<sup>th</sup> July 2020, where the effective duration of posting exceeds 12 months, or 18 months in case a motivated notification is submitted, all the applicable terms and conditions of employment of Malta, as the host MS, apply.<sup>62</sup> Additionally, concerning chain posting, a

<sup>54</sup> Exploitation of third country nationals, Editorial, Times of Malta, 17<sup>th</sup> July 2023. Accessed on 13<sup>th</sup> November 2023.

<sup>55</sup> Calleja, C., Migrants are forced to sleep on construction sites and asked to pay for rent, Times of Malta, 22<sup>nd</sup> February 2023. Accessed on 13<sup>th</sup> November 2023.

<sup>56</sup> Ibid.

<sup>57</sup> Farrugia, M., Malta dubbed 'hot spot' for human trafficking as two victims intercepted in the Philippines, Malta Today, 8<sup>th</sup> May 2023. Accessed on 13<sup>th</sup> November 2023.

<sup>58</sup> Meilak, N., Food couriers losing half their wages in illegal employment practice, Malta Today, 25<sup>th</sup> January 2021. Accessed on 13<sup>th</sup> November 2023.

<sup>59</sup> Accessed on 10<sup>th</sup> November 2023: <https://dier.gov.mt/en/postingworkers/Pages/Posting%20of%20Workers.aspx>.

<sup>60</sup> Ibid.

<sup>61</sup> Effected by an amendment to the Posting of Worker in Malta Regulations (SL452.82).

<sup>62</sup> Accessed on 10<sup>th</sup> November 2023: <https://dier.gov.mt/en/postingworkers/Pages/Posting%20of%20Workers.aspx>.

TWA is deemed to have made the posting as it is the employer of the posted worker. Thus, posted workers benefit from the conditions of employment laid down in collective agreements. A TCN migrant employed in Malta by a posting employer established in an MS does not need to obtain a work permit in Malta if they hold a working licence issued in the MS where the posting employer is established.<sup>63</sup>

## 04.2 Transparent and Predictable Working Conditions

Malta, through the Transparent and Predictable Working Conditions Regulation, SL 452.126 and amendments to the Employment and Industrial Relations Act (EIRA) [CAP. 452] transposed EU Directive 2019/1152 on Transparent and Predictable Working Conditions.<sup>64</sup> These regulations build on the list of information employers are to provide employees under the Information to Employees Regulations. In particular, these regulations outline specific information to be provided to employees who are outside workers and employees required to work outside of Malta for a period exceeding four weeks. Furthermore, this Regulation mandates that an employer keeps an updated record for each worker, which must include a copy of the written contract, any changes made to the conditions of employment and other requirements outlined in the regulations. Of note is that unless changes are made in the laws, regulations or collective agreements, the conditions of employment cannot be altered after the commencement date.<sup>65</sup>

This new regulation partially prohibits zero-hour contracts – to be allowed only:<sup>66</sup>

- When employees are full-time students.
- When the zero-hour contract is not the whole-time employment of the worker.
- When the nature of the activity to be carried out requires an employee to be replaced within a short period.

Moreover, an employee can take up parallel employment, provided it is outside the work schedule. Nevertheless, the employer may prohibit parallel employment due to issues of conflict of interest, the integrity of public service, health and safety concerns, and because of business confidentiality.

In December 2022, the EIRA was further amended to transpose further parts of Directive 2019/1152 – including:<sup>67</sup>

- Setting probationary periods of fixed-term contracts and ensuring that the length of such probationary periods is proportionate to the expected duration and the nature of the employment contract.
- Prohibition of fixed-term contracts for periods shorter than six months, with the sole exception being that short periods may be justified by objective reasons based on precise and concrete circumstances characterising a given activity. The employer must list these reasons in writing in the definite employment contract. In these cases, the probationary period shall be one-third of the duration of the same fixed-term contract.
- For fixed-term contracts between six and fifteen months, the probationary period is based on a two-month probationary period for every six months. The probationary period shall be six months for a fixed-term contract exceeding fifteen months. Workers holding technical, executive, administrative or managerial positions whose wages are at least double the national minimum wage (NMW) established that year shall be on probation for twelve months.
- Furthermore, the parties can still agree to a shorter probationary period. In the case of renewing a contract for the same function and tasks, the employment relationship shall not be subject to a new probationary period.

---

<sup>63</sup> Ibid.

<sup>64</sup> Accessed on 13<sup>th</sup> November 2023, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L1152>.

<sup>65</sup> Accessed on 13<sup>th</sup> November 2023: <https://www.mifsudadvocates.com.mt/legislative-changes-to-maltese-employment-law/>.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

The Government has recently stated that it is in discussion with social partners on introducing further measures to regulate the TWA market. In November 2023, the Prime Minister was quoted as having said that the migrant Ras and TWAs need to be tightly regulated and that those that fail to regularise their position will be forced to shut down.<sup>68</sup>

#### 04.3 Digital Platform Delivery Workers

Malta, in 2023, introduced the Digital Platform Delivery Wages Council Wage Regulation Order, Subsidiary Legislation 452.127, which regulates labour actors in the PE. This regulation defines PW to include any of the following employees:<sup>69</sup>

- (a) Any person performing digital platform work entering into any form of arrangement with any digital labour platform or multiple digital labour platforms under which they are engaged, whether on a regular or an irregular basis, to provide services for the delivery of any product.
- (b) Any person performing digital platform entering into any form of arrangement with a TWA and who is assigned to, or placed at the disposal of, whether on a regular or an irregular basis, any digital labour platform or multiple digital labour platforms, to provide services consisting in the delivery of any product.

A fundamental concept of this regulation is the legal presumption of an employment relationship. This order establishes that all persons performing digital PW are presumed to be in an employment relationship, and the digital PW for whom the platform work is carried out or, as the case may be, the TWA, shall be presumed to be the employer.<sup>70</sup>

Recognising such an employment relationship ensures that persons engaged by POs are protected by several safeguards, including that employees must be provided with an employment work contract within seven days of their employment commencement. Such a contract must include the conditions of employment outlined in the Transparency and Predictable Working Conditions Regulation. In addition to the contract, the employer must provide certain information to the employee within the first day of employment. This includes information on the automated monitoring system, which is used to monitor the work performance of platform workers through electronic means, and on automated decision-making systems, which are used to take or support decisions that will significantly impact or affect platform workers' working conditions.<sup>71</sup>

#### 04.4 Regulation of Employment Agencies

The Government, during this month, by Legal Notice 270 of 2023, established Employment Agencies Regulations targeting the sectors of employment agencies which act as recruitment agencies, TWA and outsourcing agencies. In distinguishing between TWA and outsourcing agencies, whilst both feature the concept of a natural or legal person entering into an employment contract, TWA enters into an employment relationship with TWAE to assign, on a regular or irregular basis, workers to user undertakings to work there temporarily under their supervision, direction and control. In contrast, an outsourcing agency would enter an employment relationship with employees. They would assign, whether on a regular or irregular basis, the employees to user undertakings to work there temporarily, whether by being physically present at the premises of the user undertaking or working remotely, under the supervision, direction and control of the outsourcing agency. For both scenarios, it is irrespective of whether the activity in question is the main or ancillary activity of the agency.<sup>72</sup> Thus, under the new regulations, the main difference between TWA and outsourcing agencies lies in the fact that for:<sup>73</sup>

---

<sup>68</sup> Fenech, R., Temping agency measures must recognise foreign labour is lubricant of Malta's economy – Omar Vella, Who's Who.mt, 8<sup>th</sup> November 2023. Accessed on 13<sup>th</sup> November 2023: <https://whoswho.mt/en/temping-agency-measures-must-recognise-foreign-labour-is-lubricant-of-malta-s-economy-omar-vella>.

<sup>69</sup> Accessed on 13<sup>th</sup> November 2023: <https://www.mifsudadvocates.com.mt/legislative-changes-to-maltese-employment-law/>.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

<sup>72</sup> <https://gvzh.mt/insights/the-employment-agencies-regulations-2023/>

<sup>73</sup> Ibid.

- (a) TWA, the employee, as a TWAE, would offer their services to a user undertaking for a temporary period under the direct orders of the employer.
- (b) Outsourcing agencies, the employee would be assigned to a TWA to work under the direct control and supervision of the TWA and not the outsourcing agency. The work carried out by the employee may be at the actual place of work, or else via remote working.

Furthermore, the new regulation establishes the following governance mechanisms:<sup>74</sup>

- Employment agencies must apply for a licence yearly (€3,000 for the first time and €1,500 for each renewal).
- Each agency must have a competent person who must be Maltese or European and have several years of experience and/or an HR degree.
- Due diligence will be carried out, with the assistance of the Police, on applicants, the competent person, and company directors before the licence are issued.
- The agency must operate from an approved fund according to the law.
- The agency must have a bank guarantee (not applicable to agencies offering only recruitment) of €20,000 + 2% of the payroll. This is intended to ensure compliance by any employment agency during the licence term and secure payment for employees without a job.
- Agencies that lose their licence will be blacklisted and will not be eligible to bid for government tenders or recruit workers from outside the EU.
- Temping agents cannot request any payment from employees to come to Malta. They cannot employ individuals when they are aware that these individuals are paying money to guarantee and get the same job.
- Agency Identita will not accept applications for a single permit from an agency that does not have a licence.
- Fines and licence revocation for those who do not comply with licence regulations or operate without one. Immediate license suspension will occur in certain severe instances. Repeat offenders will have their licences revoked. Fines range from €5,000 to €30,000 for those who fail to comply with legal measures.
- It will not be possible for individuals or companies to use the services of agencies that are not authorised to do this work.

---

<sup>74</sup> <https://www.independent.com.mt/articles/2023-11-22/local-news/Government-to-regulate-temping-agencies-as-from-next-year-6736256595>