

# Don't GIG Up, Never!

## Country update – POLAND

*Dominik Owczarek  
(Institute of Public Affairs – IPA)*

February 2022



[dontgigup.eu](http://dontgigup.eu)



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# INTRODUCTION

This report is part of a series of follow-up studies to the State of the Art report<sup>1</sup>, published in January 2019 under the project 'Don't GIG Up! Extending social protection to GIG workers in Europe' (VS/2018/0018), and reviewing debate, studies, and policies arising on platform work in the following countries: France, Germany, Italy, Poland, and Spain<sup>2</sup>.

As part of the 'Don't GIG Up, Never!' project (VS/2021/0204), the report updates country level information up to February 2022, illustrating contextual information and recent developments around platform work. More in detail, the country update describes political, social and academic debate on platform work, results of recent research studies, relevant legislation and policy reforms, and social partners' responses to the platform work. This was done using a questionnaire and instructions common to the different countries covered by the partnership.

To support the comparison of findings across countries, the report refers to the 'Don't GIG up!' classification of labour platforms presented in Table 1.

**Table 1. Classification of labour platforms adopted in the project 'Don't GIG up!'**

Platforms involving passenger transport services (Uber, Lift...);	<b>Type 1</b>
Platforms involving goods delivery services (Deliveroo, Foodora...);	<b>Type 2</b>
Platforms involving 'traditional gigs', like gardening, cleaning activities (Task Rabbit, Helpling...) up to skilled services (marketing, advertising, translating), possibly also by means of auctions (Fiverr, Upwork...);	<b>Type 3</b>
Platforms externalizing micro-tasks, often performed on web, to a 'crowd' of workers (crowd-work platform like Amazon Mechanical Turk).	<b>Type 4</b>

<sup>1</sup> The report is available under the following link: <http://www.dontgigup.eu/resources/>

<sup>2</sup> The web-site [www.dontgigup.eu](http://www.dontgigup.eu) hosts also two country reports addressing Sweden and Estonia respectively, and covering a larger time span for them were not included in the State of the Art report.

# PUBLIC DEBATE ON PLATFORM WORK

The actual public debate on platform work in Poland began after the date of the State of the Art report's publication (Iudicone et al. 2019)<sup>3</sup>.

In 2019, the so-called *Lex Uber*, namely the amendment to the Road Transport Act, was adopted (see the details in Koziarek 2019), which deregulated the whole passenger transport sector by extending general regulations to platform work and lowering requirements for all taxi drivers when acquiring the relevant licenses. In January 2019, *Fakt* newspaper revealed that the US Ambassador to Poland – Ms. Georgette Mosbacher – had addressed a letter to Mr. Andrzej Adamczyk, the Minister for Infrastructure, in which the Ambassador acted on behalf of Uber (being a US company) in order to prevent unfavourable regulations for this company. The final draft adopted by the parliamentary majority included provisions allowing for the processing of financial operations in passenger transport through online applications in parallel with cash registers and taximeters, which was in line with the online platforms demands. Earlier, professional taxi drivers were obliged to have both cash registers and taximeters installed, which resulted in some additional costs. Under the new regulations, platform drivers did not have to pay these costs, and were able to operate using an app provided by their online platform, which could then be used for tax purposes.

The group who was most dissatisfied with the adopted regulations were the professional taxi drivers, who pointed to the dumping practices of online platforms, which violated the principle of competition and lowered the quality of taxi services provision. They criticized the lowering of the requirements for access to the profession through abolishing mandatory training and testing on local areas and local legislation and lowering the cost of issuing a taxi driver license (Koc 2019). Professional taxi drivers pointed out that platform drivers were employed by so called 'partners', therefore, bypassing the obligation to register as self-employed, and, instead, concluding civil law contracts with lower social security contribution burden, which might be considered social dumping. Also, most platform drivers rent cars from their partners, while professional drivers usually own or lease their cars (Jakubowski 2019). Some fraud-

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<sup>3</sup> It is worth adding that the "Don't GIG up!" project was an important point of reference for the public debate: Iudicone et al. (2019) and Haipeter et al. (2020)

ulent practices were also indicated, like payments under-the-counter, with significantly lower amounts given on the official contract, or even working without a contract or signing volunteers' contracts (Koc 2019).

Other sectors where online platforms operate still remain unregulated. The need for such regulations was one of the topics to be discussed by the Parliamentary Team for the Future of Work in the Sejm of the Republic of Poland, chaired by Prof. Maciej Gdula, Member of the Parliament<sup>4</sup>. Two meetings were dedicated to outlining the issues and proposals for legislative solutions to the regulation of platform work; these took place on January 7, 2020<sup>5</sup> and January 21, 2020<sup>6</sup>.

In March 2021, the Commissioner for Human Rights, Adam Bodnar, issued an official letter to the Minister of Development, Labour, and Technology, Jarosław Gowin, with a request to regulate the country's platform work (Commissioner for Human Rights 2021). In the letter, he referred to the unclear triangular relation between online platforms, workers, and clients, which needed to be legally defined and regulated. He stressed that platform workers were currently not covered by sufficient employment or social protection, and that job insecurity, income irregularity, and lack of appropriate social security guarantees make such work precarious. The rulings on the existence of a subordinated employment relationship between platforms and employees by the French and UK's Supreme Courts, as well as the EU's Court of Justice<sup>7</sup>, were also referred to in the letter, suggesting the direction of the regulation that should be adopted in Poland.

In response to the request made in April 2021, Iwona Michałek – the Secretary of State in the Ministry for Development, Labour, and Technology (2021a) – claimed that there was no need for specific regulations for platform work, as the current general provisions in the Labour code and Civil code are sufficient. She referred to the principle under Polish law of the freedom to conclude contracts, according to which the parties have the freedom to choose the type of contract and to shape its content (Article 3531 of the Civil Code).

In December 2021, The All-Poland Alliance of Trade Unions (OPZZ 2021) and the NSZZ 'Solidarność' (2021) – two peak-level representative workers' organizations – submitted comments to the *Proposal for a Directive of the European Parliament and of the Council on Improving Working Conditions in Platform Work* (2021) within the framework of a public consultation organized by the Polish government. In general, the comments were rather supportive and in line with the European Trade Union Confederation's (ETUC) position. The Polish unions expressed their satisfaction with the introduction of the rebuttable presumption of platform workers' subordinate employment status and the reversed burden of proof that platform workers are independent contractors, as well as with the right to access the content of the digital platform's algorithm, including the right to challenge it. They were also satisfied with the confir-

4 <https://www.sejm.gov.pl/Sejm9.nsf/agent.xsp?symbol=ZESPOL&Zesp=648>

5 [https://www.sejm.gov.pl/Sejm9.nsf/transmisja.xsp?documentId=3C9E5D58BA-8A1F63C12584E80028619B&symbol=TRANSMISJA\\_ARCH&info=T](https://www.sejm.gov.pl/Sejm9.nsf/transmisja.xsp?documentId=3C9E5D58BA-8A1F63C12584E80028619B&symbol=TRANSMISJA_ARCH&info=T)

6 [https://www.sejm.gov.pl/Sejm9.nsf/transmisja.xsp?documentId=7E82CE2A7E61A825C12584E-B004E02D0&symbol=TRANSMISJA\\_ARCH&info=T](https://www.sejm.gov.pl/Sejm9.nsf/transmisja.xsp?documentId=7E82CE2A7E61A825C12584E-B004E02D0&symbol=TRANSMISJA_ARCH&info=T)

7 For details, see ETUI (2020), Supreme Court of the UK (2021), De Stefano (2020), ruling by the Italian Supreme Court: Aloisi, De Stefano (2020), court rulings in Spain, Belgium and Italy: ETUC (2021c)

mation of the right to information and consultation, the detailed provisions on personal data protection, the obligation to comply with health and safety regulations, the obligation that platforms had to be registered and provide for information about employment to national authorities, and the right to communication between workers through the platform without the employer having access to their posts.

In January 2022, the Lewiatan Confederation (2022) – a peak-level employers' organization – also submitted comments during the consultation process. The organization took a generally critical position, expressing its discontent with the directive proposal's provisions on the rebuttable presumption of employment status and the reversed burden of proof. The Polish Entrepreneurs Federation and the Union of Entrepreneurs and Employers also submitted their comments, but these are not accessible publicly.

In February 2022, the Polish government (2022) made an official statement concerning the proposed directive, supporting the general intent to protect platform workers and the proposed solutions relating to the social, economic, and financial impact of the regulation. From the justifications in the statement, however, the conclusion can be drawn that the Polish government supports the freedom to conclude agreements between parties and that it will strive to establish such EU laws that will not contradict the current situation in terms of employment under civil law contracts<sup>8</sup>, when transposing the future EU provisions to national law. In the event of a dispute about the form of contract between platforms and workers, the workers have the right to pursue their rights in court.

## COVID-related issues in the public debate

Consecutive lockdowns imposed in response to the COVID-19 pandemic resulted in periodical shutting down of restaurants and hotels in 2020 and 2021, during which restaurateurs were restricted to providing take-away services only. The operation of online delivery platforms boomed due to the unexpected demand surge for these services. Some of the platforms took advantage of the extremely difficult position the restaurants were in – who would not otherwise have been able to survive without cooperating with the delivery networks (*'deliver or die'*) – and charged high fees for delivery, sometimes even reaching 37% of the order's cost (VAT included). In April 2020, Urszula Zielińska, Member of the Parliament (Green Party), submitted a parliamentary interpellation to the Office of Competition and Consumer Protection (UOKiK) in order to check whether the fees infringed on competition rules (Wojciechowski 2020). At the time of the publication of this report, the UOKiK had not responded to the interpellation. In November 2020, the Lewica parliamentary caucus proposed an amendment to the anti-crisis Act (the so-called Anti-Crisis Shield 6.0) in order to temporarily limit these fees during the COVID-19 pandemic (Rzeczpospolita 2020). The proposed amendment was rejected by the two largest parties: the ruling Law and Justice and the opposition Civic Platform party.

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<sup>8</sup> See the discussion on civil law contracts in the section on legal regulations in this report

# FEATURES AND TRENDS

## National level studies

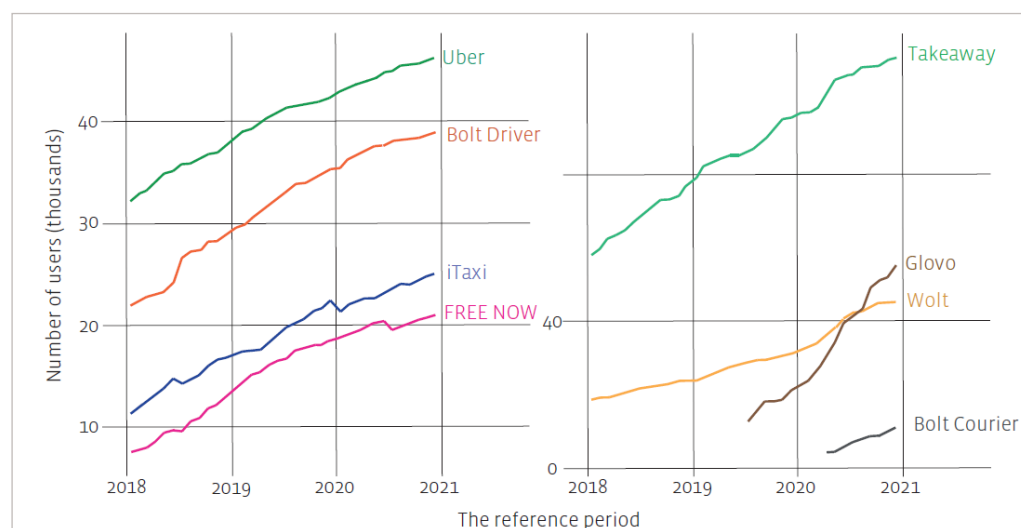
The results of the first quantitative study on platform work in Poland, conducted on a representative sample of the population (n=844) aged 18–65 between July and September 2018 using CAWI methodology (Owczarek 2018), have been corroborated, to great extent, by subsequent country-level research<sup>9</sup>. Briefly recalling the results, 11% of respondents declared they had conducted work using an online platform at least once in the past, but only 4% of respondents declared working this way on a regular basis. The first figure also corresponded to the results of a survey conducted in other CEE countries: Bulgaria - 3%, Croatia - 11%, Czechia - 6%, North Macedonia - 9%, and Romania - 14% (Alexandru, Johari and Moraru 2019). Platform work in Poland was more often performed by the youngest respondents: 22% in the 18–24 age group, and 14% in the 25–34 age group; and among those with primary and lower secondary education – 17% in each of the two age groups. Also, they more frequently lived in larger cities (15% in cities of 200–499 thousand inhabitants, and 13% in cities over 500 thousand inhabitants). Employment in less stable forms of work was also more frequent in this group: 15% were employed under fixed-term employment contracts, 14% among the self-employed, and 14% in the group working without contracts. Platform work was most frequently treated as a side job (71%), performed irregularly by the vast majority of the group. As much as one third (31%) of platform workers in Poland claimed that they were not able to estimate the average number of hours worked per week, one quarter declared they had worked less than 10h/week, while another quarter stated between 10 and 20h/week, 14% between 20 and 40h/week, and 9% over 40h/week. Declared wages were rather low in the group: 40% of platform workers declared monthly incomes under one thousand PLN (approx. € 240), 26% between one and two thousand PLN (approx. € 240–480), 18% between two and five thousand PLN (approx. € 480–1200), and 9% had an income higher than five thousand PLN (€ 1200). When compared to other forms of work covered by the study, the job quality of platform work was assessed at almost the lowest level: portfolio work -21.1 points, platform work -21.5 points, causal work -22.9 points, job sharing -25.1 points, and ICT-based mobile work -25.4 points.

<sup>9</sup> Some discrepancies might be observed when compared with the Piasna and Drahokoupil (2019) study conducted in five other CEE countries.



Beręsewicz et. al (2021) conducted a quantitative study based on data retrieved from smartphones, aimed at estimating the scale and dynamic of platform work in the food delivery (Bolt Courier, Takeway, Glovo, Wolt) and transport services sectors (Bolt Driver, Free Now, iTaxi and Uber) in Poland. The study showed that the scale of the observed group doubled between January 2018 and December 2020, from approximately 70 thousand to over 130 thousand in the transport sector, and from approximately 10 thousand to over 30 thousand in the delivery sector (Figure 1)<sup>10</sup>. The increase in transport sector numbers was observed mostly in regions outside the big cities and metropolitan areas, while delivery services grew mostly in the cities. The observed group constituted about 0.5–2% of working populations in the nine largest Polish cities included in the study (online platforms from other sectors were not covered by the study), with the largest numbers being in Krakow and Warsaw (regardless of sector).

**Figure 1. The monthly number of active users in Poland for selected apps in the transportation and delivery sectors between 2018 and 2020**



Source: Beręsewicz et. al (2021)

The vast majority of platform workers were young men, but the age structure for app users was different for each of the two categories of services. The majority (95%) of couriers were between 18 and 30, which is mainly related to the mode of transportation – bikes and scooters. Platform workers were predominately of Polish nationality – between half and 78%. Most of the foreign platform workers were Ukrainians (between 20% and 31%), while other nationalities accounted for a maximum of 10% (Belarus, Russia, India, Bangladesh, or Nepal) with the exception of Wolt, where they constituted nearly 18% of all platform workers.

<sup>10</sup> Authors note: it could be that users may have been using more than one of these apps, but the amount of this overlap is unknown.

**Table 2. Demographic characteristics of platform workers in the transport and delivery sector in 2020 in Poland**

App	Sex		Age group			Nationality			Student	Parent of a child	
	Men	Women	18-30	31-50	51-64	PL	UA	other		aged 0-4	aged 5-10
	Transportation										
Uber	88.0	12.0	49.2	46.4	4.4	66.0	24.1	9.8	2.7	3.5	3.1
Bolt	86.3	13.7	56.2	37.8	6.0	65.5	26.1	8.5	3.1	4.4	1.9
FREE NOW	88.6	11.4	40.1	52.4	7.5	76.8	21.7	1.5	0.8	2.0	3.2
iTaxi	88.7	11.3	28.2	58.1	13.7	77.9	20.2	2.0	4.4	0.6	1.1
	Delivery										
Takeaway	89.7	10.3	94.6	4.5	0.9	62.1	31.1	6.7	8.1	8.1	1.6
Glovo	93.8	6.2	94.1	5.7	0.2	61.6	27.5	10.8	7.8	7.8	1.4
Wolt	92.3	7.7	95.7	2.9	1.4	54.2	28.4	17.5	7.9	8.0	1.5
Bolt Courier	94.7	5.3	100.0	-	-	62.3	27.5	10.2	0.0	0.0	0.0

Note: PL – Polish, UA – Ukrainian, other – other foreigners.

Source: Beręsewicz et. al (2021)

## International comparative studies

Despite the fact that there were several respected international comparative studies on platform work covering a number of European countries (i.e. Pesole et al. 2018, Huws et al., 2019, Urzi Brancati et al., 2020), Poland has largely been omitted thus far, or presented as an empty or nearly empty case in terms of conducted studies (i.e. Vaughan and Daverio, 2016, European Commission 2017, Eurofound 2019, Aleksynska 2021).

According to Piasna and Drahekoupil (2019), only 1.9% of respondents had ever tried to work through platforms, while as much as 33.3% had conducted some sort of internet work in Poland. Regular platform work (at least weekly) was performed by only 0.4% and internet work, in general, by only 3.6%. Compared to the other CEE countries covered, the scale of platform work was significantly lower in Poland. But if regular platform work is considered ('at least monthly', or 'at least weekly'), the proportions are comparable and very low, well below statistical error.

**Table 3. The extent of internet and platform work (%) across five CEE countries**

Internet work							
	Tried at least once		At least monthly		At least weekly		At least 50% of income in the past 12 months
	Any	Excluding selling belongings	Any	Excluding selling belongings	Any	Excluding selling belongings	
Bulgaria	19.2%	13.9%	2.8%	2.6%	1.3%	1.2%	2.9%
Hungary	20.0%	13.1%	4.4%	3.7%	2.1%	2.1%	2.5%
Latvia	17.6%	7.6%	3.9%	3.2%	2.0%	1.8%	1.7%
Poland	33.3%	20.2%	7.3%	4.7%	3.6%	3.0%	n.a.
Slovakia	32.1%	28.7%	5.4%	5.1%	2.3%	2.3%	0.9%

Platform work				
	Tried at least once	At least monthly	At least weekly	At least 50% of income the last time did this work
Bulgaria	4.4%	1.5%	0.8%	1.1%
Hungary	7.8%	3.0%	1.9%	3.4%
Latvia	4.0%	0.8%	0.5%	0.7%
Poland	1.9%	0.4%	0.4%	0.1%
Slovakia	7.1%	1.1%	0.4%	1.0%

Note: Share among all respondents aged 18-64.

Source: Piasna and Drahoukupil (2019); ETUI Internet and Platform Work Survey

Unlike other surveys (Pesole et al. 2018, Huws et al. 2019), the study showed that the average age of platform workers was not significantly lower compared to those not working through platforms (Table 4). Students, however, were over-represented among platform workers, regardless of country, meaning workers were 1.6 times more likely to be in education than other respondents. There were no major differences in education among regular platform workers ('at least once a year') and the other categories. The average level of education for those that had done some platform work in the past was somewhat lower, but the difference was not large. The study showed that gender differences were not large either and reflect general patterns in the regular labour market, i.e., women are over-represented in the category of freelance services and tasks (73% female) and freelance work involving short tasks and 'click work', including childcare and tutoring (59%). While men are over-represented in creative and IT work (57% male), a category associated with higher skills and better pay. There was some gender imbalance among regular ('at least once a year') platform workers, with 58% being men.

**Table 4. Average age of platform workers compared with other respondents, by country**

	At least once a year	In the past	Never
Bulgaria	36.5	34.8	41.2
Hungary	38.6	40.6	42.5
Latvia	36.7	37.0	41.8
Poland	39.4	33.2	42.1
Slovakia	36.4	39.1	41.6
Total	37.5	37.7	41.8

Source: Piasna and Drahoukupil (2019); ETUI Internet and Platform Work Survey

# POLICY, LEGAL AND CASE LAW DEVELOPMENTS

According to the European Observatory of Digital Labour Platforms<sup>11</sup>, Poland has, so far, almost been a blank spot on the map of Europe in terms of both regulations and institutional initiatives undertaken to protect platform workers' rights. As stated above, there is no register or any publicly available repository of online platforms, and none of the current collective agreements have covered or referred to this labour market sector.

No case law developments or guidance established by enforcement bodies addressing platform workers have been released in Poland so far. The sole exception in this respect was the sectoral reform of passenger transport law, adopted in 2019 in order to extend these regulations to online transport platforms (like Uber and Bolt) and to establish a level playing field for companies in the sector. Online platforms operating in other sectors remain unregulated, and only the general legal provisions apply.

The reform of the passenger transport law was referred to in detail in the previous 'Don't GIG up!' report (Koziarek 2019). Therefore, only its key highlights will be reported here. In 2019, an amendment to the Road Transport Act (so called *Lex Uber*) introduced the following changes:

- Adopting of a definition of "intermediation" in passenger transport services and imposing the obligation on intermediaries to obtain a license (transport online platforms). Moreover, the intermediary is obliged to keep track of all orders;
- Restricting the contracting out of passenger transport services by intermediaries only to those entrepreneurs who hold relevant passenger transport licenses;
- Issuing fines to both intermediaries who operate without a license and the drivers who accept orders from such an intermediary;
- Relaxing the requirements needed to obtain a taxi license, allowing drivers to provide passenger transport services by abolishing mandatory training and tests on local areas and local legislation;

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<sup>11</sup> accessed on 30.03.2022

- Allowing the use of mobile software applications for fare calculation as an alternative to taximeters.

The proposed reform does not address the issue of wages, social security, health and safety at work, collective rights, or any other aspects of working conditions, that was left to the discretion of the civil partners.

Earlier, in order to establish a prudent interpretation of the tax law, the Ministry of Finance – in its statement published in 2015 – clarified that drivers using online platforms must submit their income tax return as self-employed entrepreneurs, being subject to the Personal Income Tax Act (1991). According to the statement, the regulations applied whether or not the person actually registered a business activity or obtained a passenger transport license.

Concluding, platform work in Poland, to the greatest extent, remains unregulated and often enters into labour market segments that are already flexible and insufficiently protected – also in terms of the contractual forms applied. It has amplified recent processes of the ‘precarization’ of certain groups rather than contributing to the innovativeness of the economy, and it might also contribute to the development of a shadow economy and undeclared work. Only the passenger transport sector has been regulated, though with a view to ensuring prudent income tax collection. The reform effected the lowering of requirements for all taxi drivers in acquiring the relevant licenses, even for those not primarily being platform workers. Workers’ rights and social protection were not addressed at all under this reform, while online platforms business models gained legal recognition.

# SOCIAL PARTNERS' ACTIVITIES AND GRASSROOT CAMPAIGNS

The reactions of social partners to platform work have been rather modest and can be boiled down to capacity building activities and taking part in public consultations. In 2021, the first platform workers' strike in Poland took place, while workers' activists disrupted the UN Digital Summit in Katowice in order to draw attention to the poor working conditions of platform workers.

The unions have been focusing mostly on the legislative and knowledge building aspects related to platform work, rather than organizing platform workers, providing services to them, or approaching online platforms at company level. Two representative peak-level trade unions – the All-Poland Alliance of Trade Unions (OPZZ 2018) and the NSZZ 'Solidarność' (2018) – referred to platform work in their program statements in 2018. The unions expressed the need to study and monitor the scale of platform work and to provide platform workers with social protection and representation of their interests. Unions participated in some EU funded projects and organized and participated in seminars on platform work. The OPZZ, in partnership with the Warsaw Office of the Friedrich Ebert Stiftung (foundation), published a Guidebook on digitalization and platform work (Rogalewski 2020) that also included recommendations for unions and government regarding the steps that need to be taken in order to regulate platform work and improve its working conditions. The OPZZ and NSZZ 'Solidarność' took part in both the phases of public consultation on the proposal for a platform work directive at the EU level, organized by the European Commission, contributing to the ETUC statements (2021a, 2021b)<sup>12</sup>. In December 2021, both unions submitted comments to the Polish government on the published Proposal for a Directive of the European Parliament and of the Council on improving working conditions in platform work (2021) (see the details in the first section of this report).

In April and May 2021, couriers delivering food for Glovo went on strike in Biłystok and Gdańsk, which was the first and the only known case of collective

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<sup>12</sup> The ETUC also issued a resolution on the protection of the rights of non-standard workers and workers in platform companies (including the self-employed) in 2020, to which representatives of the Polish trade unions contributed.

action organized by platform workers in Poland so far (Szymaniak 2021a). The strike was organised because, on April 26, 2021, the company had unfavourably changed the way orders were distributed and awarded by the algorithm. The workers claimed that their wages were cut by as much as 40% as a result of the change and expressed discontent for not having been consulted on the new algorithm rules. As a result, a dozen couriers in Białystok decided to refrain from delivering orders collectively, despite keeping their availability status on in the application. A few days later, as many as 60 couriers in Gdańsk tried to load the system with small orders (like ketchup from fast food chains), which came on top of the actions in Białystok. Glovo reacted by logging off the strikers and increasing the rates for the non-striking couriers. The company did not try to contact the strikers or to start negotiations. Couriers were approached only by intermediary partners with a question to confirm their unavailability. On 18 May, Adrian Zandberg, Member of the Parliament (Partia Razem) addressed the Ministry of Development, Labour, and Technology with interpellation to cover platform workers with labour protections and to ensure their constitutional right to strike. In response to the unfavourable publicity, Glovo met twice with the workers and renegotiated the conditions of the algorithm in a more favourable way (Szymaniak 2021b).

On December 6, 2021, activists from the Polish Socialist Party (Polska Partia Socjalistyczna, PPS), the Labour Confederation of Youth (Konfederacja Pracy Młodych), the Federation of Young Social Democrats (Federacja Młodych Socjaldemokratów), and some anarchist activists disrupted the plenary session of the UN Digital Summit in Katowice. The group entered the stage and displayed the banner 'Platform workers' rights are human rights', in order to draw public attention to the poor working conditions of platform workers (Oleszczuk, Krakowiak and Łukasik 2021).

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