

THE GIG WORKERS ON TAP

AN INTERVIEW
WITH **LISBETH
BECH POULSEN,**
BARTŁOMIEJ KOZEK,
KAROLIEN LENAERTS
& **LORENZO ZAMPONI**

The rise of the ‘gig economy’ has turned food-box-burdened bikers into a commonplace sight in many European cities. Less visible but equally ‘gigified’ are the care, cleaning, and high-end service sectors. While definitions vary, they agree on how the gig economy uses software to connect workers in the crowd to consumers, and algorithms to tailor and track their services. Four panellists discuss the perils and possibilities of this innovative way of organising work, and how governments can keep up.

GREEN EUROPEAN JOURNAL: The ‘gig economy’ promises business savings on employee benefits, office space, and training, plus the ability to bring in experts only when a specific need arises. For a freelancer, it might improve work-life balance. But does the reality so far live up to the ideal?

LORENZO ZAMPONI: The negative sides of the gig economy are much more evident. To a large extent, what we call the gig economy these days is simply a more extreme form of the long-known phenomena of the flexibilisation and precarisation of work – at least in Europe. The platforms that hire gig workers benefit from maximum levels of flexibility and effectively obtain a pay-as-you-go workforce. The gig economy label serves to hide what is in practice a very traditional subordinate employment relation in order to avoid the obligations to fulfil legal and social rights that traditional labour relations entail. It’s not that there aren’t opportunities in growing sectors, such as food delivery, that use gig workers. The gig economy can lead to job creation, but it has to be much better regulated.

KAROLIEN LENAERTS: One of the things that crops up quite often in the literature is the necessity of finding a balance between, on one hand, supporting innovation, encouraging new business models, and creating new opportunities in the labour market, and, on the other hand, ensuring that those who work in the gig economy are properly protected. When it comes to new opportunities, there is this belief that platforms can create jobs, and that people who struggle in the regular labour market such as immigrants, disabled people, or single parents can use platforms to get access to work. However, there is very little empirical evidence supporting this at the moment. Moreover, we don't know the next step once these people have gained access to work. For example, if someone finds a job through a platform, is it stable, is it fixed employment, and can they move on to something else? Or, is gig work just a trap that they fall into when they lack other job opportunities? It is important to mention that the gig economy is a very heterogeneous phenomenon and, as the trend develops in Europe, it becomes ever more so.

BARTŁOMIEJ KOZEK: In Poland, the gig economy entered into broad public discussion last year, when cab drivers protested against Uber on the streets of Polish cities. Opinion was split two ways. One view argued we should keep the labour market as it is, and either ban Uber or make the company and its drivers subject to the same regulations as taxi cab drivers

and firms. On the other hand, a techno-optimistic and libertarian view presented Uber as an inevitable trend not just to be accepted but also embraced. Prime Minister Mateusz Morawiecki, for example, sees the 'sharing economy' sector as a great business opportunity. But what is lacking in Poland is a discussion about the future of work as such, about how we can regulate and shape work, and on what levels we should deal with it. Currently we have a patchwork of different regulations and mentalities, as demonstrated by the jumble of approaches that different municipalities take towards Uber.

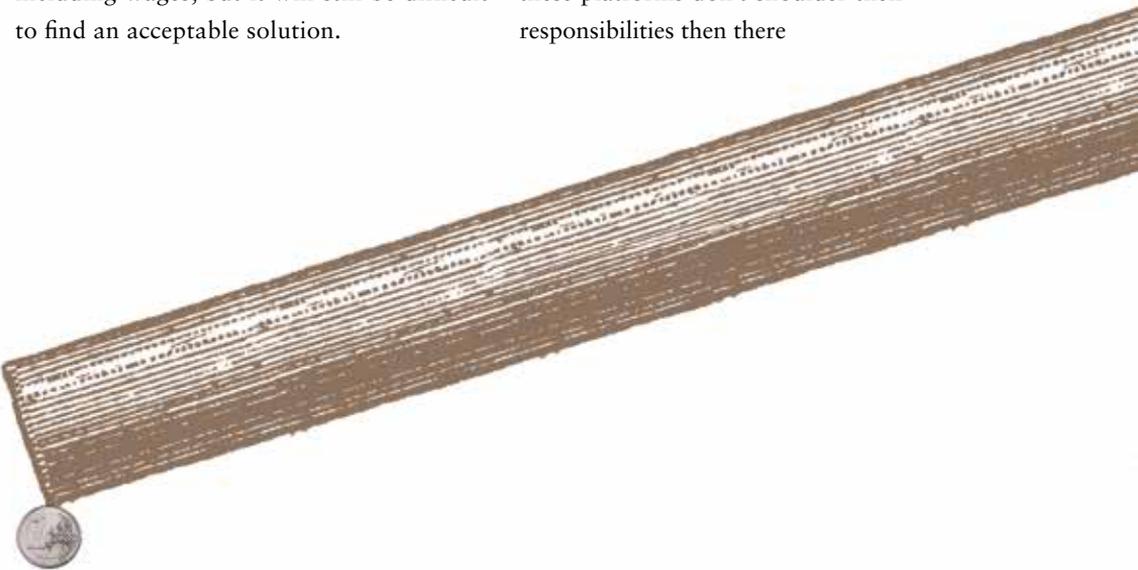
LISBETH BECH POULSEN: The general debate in Denmark is similar to what Bartłomiej has described. Some hold techno-optimistic views and claim that we should not regulate exciting business opportunities. Others are very critical of the gig economy for reasons including taxation, labour conditions, and inequality. The current government in Denmark has created a so-called 'disruption council' with the mandate of promoting these new kinds of businesses and innovations. The council has a very narrow view, however. It basically looks at the interests of the companies and at what can boost economic growth. Social and ethical considerations are absent from their agenda.

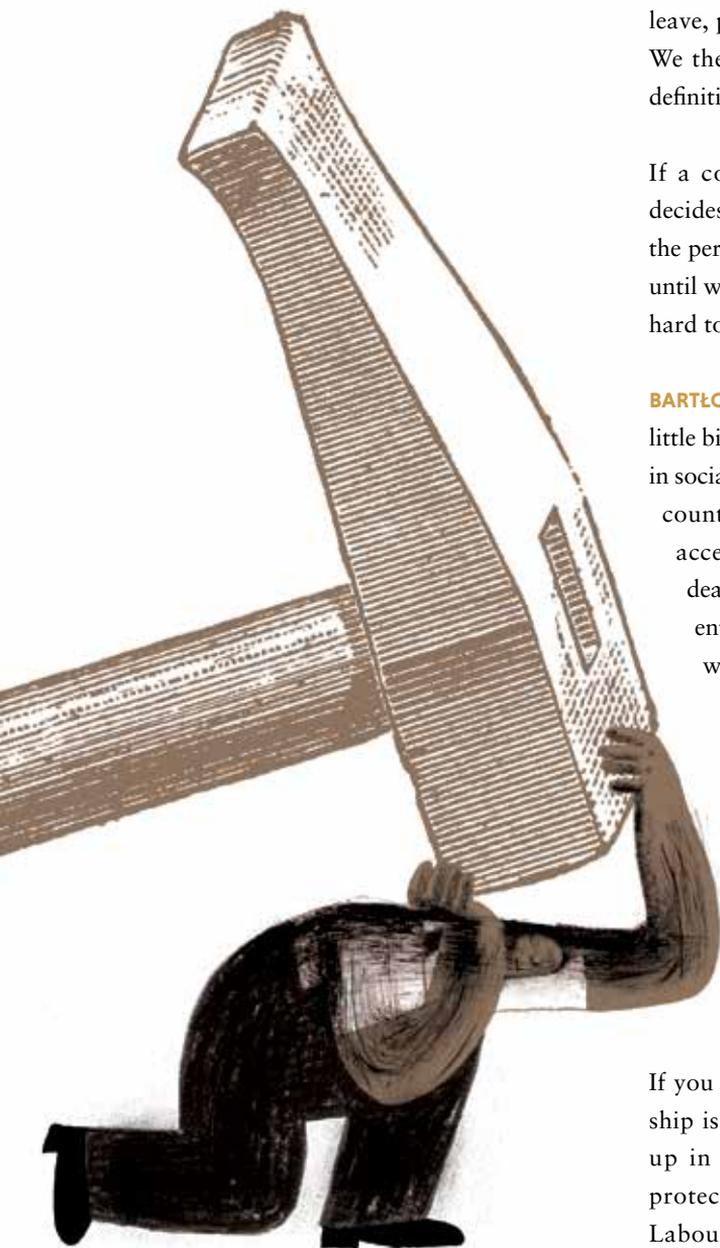
In Denmark, traditionally working conditions have been negotiated between employers and employees, and that set-up has worked

well for many years. But now it is definitely challenged by the gig economy. Denmark doesn't have a legal minimum wage, and, as platforms often reject participating in the negotiation rounds upon which the Danish model is based, gig economy workers often end up on very low salaries. We had a case with Uber a couple of years ago when the company was not ready to negotiate with the politicians and regulators of the country. Frankly, the representatives of the company were quite arrogant. They said that Uber wanted to be in Denmark but it didn't want to negotiate the terms of their activities. In the end, a Danish court ruled their activities illegal as 'pirate taxis'. Now, the company is coming back, claiming it wants to negotiate a deal on the terms and conditions of work, including wages, but it will still be difficult to find an acceptable solution.

You have already mentioned that many of the gig economy workers have to navigate an unregulated environment, often earning not much more than a minimum wage. What could be done to protect these workers?

LISBETH BECH POULSEN: In Denmark, we have platforms providing cleaning services where you hire somebody to clean your apartment. These companies are very firm on the point that these people are not employees but freelancers. They claim to simply provide a platform where entrepreneurs meet potential clients. Obviously, the reason that they are so firm on that point is because they don't want to bear their responsibilities as employers. This position, however, poses a major problem for governments on all levels. Because if these platforms don't shoulder their responsibilities then there





will be no contributions paid for maternity leave, pensions, health insurance, and so on. We therefore need to introduce a clear-cut definition of employment.

If a company commands somebody and decides the rate at which this person works, the person is an employee – by definition. Yet until we have this definition in place, it is very hard to move forward.

BARTŁOMIEJ KOZEK: I would like to step back a little bit, because regulations are implemented in social settings and these settings differ from country to country. If regulations are not accepted socially then they can become dead letters. In the case of Poland, the term entrepreneurship bears a lot of ideological weight, ever since the fall of communism. Entrepreneurs are seen as the people driving our economy and the number of self-employed people in Poland is among the highest in Europe. However, almost 20 per cent of these people chose self-employed status not out of their own will, but because they have no other opportunity to work.

If you have a situation where entrepreneurship is not an option but a ‘must’, you end up in a situation where promoting and protecting labour rights is really difficult. Labour unions are losing their importance

in Poland, as they are other countries of the region such as the Czech Republic, Slovakia, and Hungary. Traditional labour organisations are seen as backward looking and damaging to a country's business prospects. Now, if we look at what we should regulate, we have to divide it into two major categories. First, we need to decide how to regulate labour markets. In this case, in Poland it is important to refer to the Supreme Court decision that ruled that unionisation is not only limited to workers with permanent jobs. The self-employed or people working on so-called 'junk contracts' have the right to organise too.

A second, very important issue regarding technological progress and our labour market is whether we have the option to provide our workers with other opportunities to work under fairer conditions. For example, the New Economics Foundation in the UK is creating a new e-hailing application to promote better working standards.¹ Finally, when so many online platforms are building their business models on exploiting user-specific information, we need to have proper regulation to make sure people can control their own data.

KAROLIEN LENAERTS: There are a few things that I would like to point out. First of all, there are many different realities in the platform economy. We have click workers who earn a

few cents per task, and Deliveroo bikers and Uber drivers, whose earnings can be close to the minimum wage, or well below it. At the other end of the spectrum, we have genuine entrepreneurs who use these platforms to find new opportunities and often charge very high wages, just as they would in a regular setting. Motivation can differ greatly from person to person, making discussions on wages and employment status more complex.

The point Bartłomiej raised regarding data protection reminded me of the transparency issue. Precisely because all transactions and tasks are digitalised, the gig economy is a real opportunity to lift some activities out of the black market. On the other hand, digitalisation does lead to data protection issues.

LORENZO ZAMPONI: We shouldn't forget that lack of regulation is at the core of gig economy business models. These companies' profits depend on them having no formal employees but being able to rely on a pool of fake freelancers, on demand to perform specific menial tasks. In most cases, there is nothing really innovative about these platforms. Instead, all they do is exploit loopholes in regulation and duck their responsibilities towards their employees. There are many ways to approach this. You can force companies to abide by existing regulations, or

¹ The New Economics Foundation is running a crowdfunding campaign to launch an alternative to Uber that will protect workers' rights and adopt an ownership structure that redistributes profits to drivers and customers alike. The app is provisionally called CabFair: bit.ly/2JshJkD

you can create incentives for employees to use platform-based cooperatives to organise their work. I refer to them as employees because it is hard to look at people wearing corporate uniforms and following strict timetables and see them as freelancers.

We also have to look at how this market works, and I don't think we have seen enough yet to judge. The market, especially in the delivery field, is still in a transition phase. Many of these platforms operate in winner-takes-all markets, so companies are investing heavily to conquer a high position. Soon, it may look like the social media market, where we see a monopolist who makes profit because it is able to destroy competition – it's something we should follow with attention.

Karolien, what are the main findings of your cross-country analysis of policy responses to the gig economy?

KAROLIEN LENAERTS: We noticed that the discussion among policy-makers was mainly about mitigating negative impacts and that competition, taxation, the support of innovation, and entrepreneurship were the highest ranking priorities. There has been much less discussion about labour protection, access to social services, representation, and organisation. Subnational governments were usually the front-runners in trying to find solutions, whereas the national governments

seemed to be more absent, especially at the beginning. Many national governments looked for guidance from the European level. But since there is so little knowledge, it is very difficult to come up with a good solution. Once more people became exposed to these platforms, both as workers and consumers, regulators realised that they needed to look beyond issues of competition and taxation. In most of the countries, this realisation promoted an increased focus on employment issues. Because of how labour laws are framed, there is a binary situation where you can either be an employee and have all the rights that legislation upholds, or you are self-employed, and then you are on your own.

The introduction of a 'third status', specific to gig economy workers, was a point that came up quite often. Most regulators have turned away from this kind of idea by now, since the framework of labour legislation is already complicated enough in most countries. All in all, we can say that governments have taken very different approaches, but their responses have been late. They are trying to see what developments we are going to experience and how public opinion reacts. For now, the most interesting regulatory examples can be found in France. Labour law has been changed and the right to organise has been extended to make sure that crowd workers can also organise and join or start a union themselves.

Lisbeth, what can policy-makers do to regulate the gig economy?

LISBETH BECH POULSEN: Last autumn, the Danish government came up with a package of initiatives under the headline ‘Promoting the sharing economy’. The government calls everything in the gig economy ‘sharing economy’, just because it sounds nice. Thereby, they put Uber, Airbnb, the click workers, and many others in the same box, and they convey that this is a positive development for our labour market. Regulators are trying to make it easier for consumers to access services, as well as for businesses to operate. But dealing with working conditions only comes up at the margins.

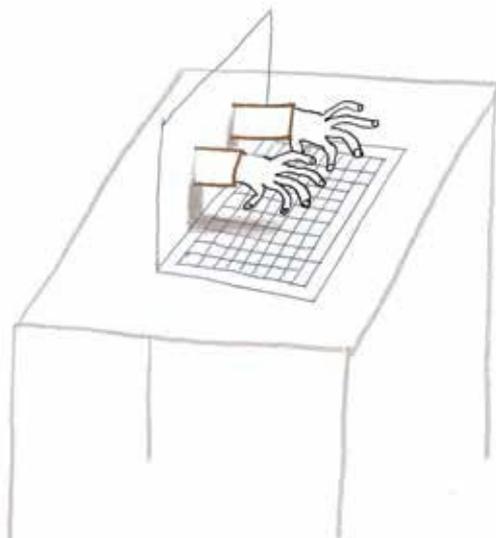
We have to have adapt our fights to different platforms, because regulating Airbnb, Uber, or care-sharing initiatives is not the same. We have to look at these different companies separately. However, we can definitely say that working conditions are under-regulated across the board. But regulation is a difficult issue in Denmark because there has always been collective bargaining between employers and employees. Neither the employers nor the employees welcome us as politicians entering that arena via regulation. Most people

in Denmark really appreciate the collective bargaining system and so we need social actors, the labour movement, and unions to play a bigger part in the process. But they are also puzzled, and fail to understand what is going on in our labour markets.



Bartłomiej, what has been the Eastern European experience in terms of regulation?

BARTŁOMIEJ KOZEK: I agree that different companies and different sectors need different regulations, but that also requires the gig economy discussion to become more technical and nuanced over time. I think we need to take a step back and discuss how we can prepare our labour market for the future. For that, the most important component would be to focus on our educational system and to create real opportunities for young people to deal with the challenges to come. Education for the future is at least as important as regulation. The other task would be to create a level playing field for traditional and new actors on the labour market. In Poland, for a long time many young people had no other possibilities than to work on junk contracts without access to social security. These situations are unacceptable, and no market player should be allowed to benefit from them. Take the case of Uber drivers in Poland, among whom many are Ukrainian – thanks to the gig economy, they have a new source of income. Yet while many may be able to live a decent life here, their status puts them at risk of not having the same access to social protection as others in Poland.



Lorenzo, what opportunities, if any, do gig workers have to organise and unionise?

LORENZO ZAMPONI: With the rise of the gig economy, it has become even harder to build a social identity around the way someone makes a living, let alone to politically empower that identity. Unionisation, and the organisation of workers in general, is much more difficult. There is also a large heterogeneity among gig workers. In the food delivery sector, you have students who want to earn something on the side and 30-year-olds who work 12 hours a day to make a living. The prospects of identifying with the job and forming a collective or a grassroots organisation dealing with labour issues are definitely stronger for the older workers than the students.

A second point crucial to political organisation is that people's minds are divided between their identities as workers and consumers. As consumers, we want to pay as low prices as possible, but we have to realise that this is

connected to lower salaries. This contradiction is often hard to reconcile. The gig economy has a big symbolic component, however: food delivery companies make a profit out of the fact that their riders project a cool, fresh, and environment-friendly image. This appeal makes the companies vulnerable in the public scene. Attempts at collective action by workers have been successful on the discursive level and the techno-optimistic narrative that was hegemonic for many years has been overcome to some extent. A good example of this change is Italy, where we have seen that people are on the side of workers rather than companies. After strikes and demonstrations, tips given to food-delivery workers tend to double.



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