



Vesela Kabatliyska

Finding the balance in the changing labour market

The development of the European Union economy and social environment during Industrial Revolution 4.0 imposed significant changes to the labour market.

Each of the main characteristics of Industry 4.0 has its own impact over the standard employment forms of dependency. The globalization and free movement of people, goods and services led to rearrangement of the labour force and increasing lack of personnel. The strongly protected and regulated EU competition environment have resulted in the emergence of huge number of small enterprises and startups with limited financial recourses and fast development, especially in the digitalized business processes. The technologies' impact over the personal life and growth marked the new generation at the labour market as millennials.

These and many more factors predefined some of employment related processes and needs. The HR professionals are developing new recruitment procedures. The employees' management models are moving from authoritarian to more agile leadership models such as delegation.

Even the standard dependent employment relationship is under question - who is the dependent party nowadays – employees, as usually presumed, or employers suffering from serious lack of personnel (both for high and low qualified jobs) and striving mainly to keep their employees satisfied and engaged?

On the other hand, changes in the employees' requirements and priorities are also noted. The new generations' different approach regarding the employment processes and the more frequent "burn-out" result of the careerism triggered review of the standard employment forms and finding the balance between personal life and work.

Thus, societal and economic developments of the employment environment naturally are giving rise to new forms of employment in EU during the past decade.

Trends in the employment in EU are reviewed and categorized as nine new forms of employment by the European Foundation for the Improvement of Living and Working Conditions (Eurofound) in 2015¹, namely:

(i) Employee sharing

Where one employee is jointly hired by a group of employers to meet the HR needs of various companies, resulting in permanent full-time employment for the employee.

(ii) Job sharing

Where one employer hires two or more employees to jointly fill one full-time job position, combining two or more part-time jobs.

(iii) Casual Work

¹ Eurofound (2015), *New forms of employment*, Publications Office of the European Union, Luxembourg.

The employer does not provide work regularly to the employee but call them on demand

(iv) Interim Management

Highly skilled experts are hired temporarily for a specific project or to solve a specific issue, thereby integrating external management capacities in the existing work organization.

(v) ICT-based mobile work

Performance of work at any place and at any time by use of modern technologies.

(vi) Crowd employment

Employers and employees are matched via online platform and all tasks are divided and allocated among a “virtual cloud” of workers.

(vii) Portfolio work

Self-employed working for different clients (potential employers).

(viii) Collaborative employment

Freelancers and self-employed work together sharing resources and tasks.

(ix) Voucher-based work

The employment relationship is based on payment for services with a voucher purchased from an authorized organization that covers both remuneration and social security contributions.

Some of the general characteristics of the new forms of employment are:

- ✓ not employment relations in the strict sense
- ✓ different than the standard model of one-to-one dependent relations
- ✓ forms finding the balance of the employers’ and employees’ new interests and goals
- ✓ forms aiming at enhanced flexibility for all parties
- ✓ provision of work for limited periods of time or on discontinuous or intermittent basis rather than on a continuous or regular basis
- ✓ lack of balance between the protection of employees in general sense and the easy use of these forms of employment
- ✓ some are more relevant for employers, others – for freelancers and self-employed, while some – to both
- ✓ forms aiming at time and costs savings – moving from “established” to “effective”
- ✓ most of them do not have specific legal or collectively agreed framework in most Member States.

Digital Platform Work

One of the most discussed new forms of employment between legislative authorities and practitioners is the crowd employment also known as digital platform work. This type of employment raises most of the important general questions related to the new trends envisaged in the European labour market, such as:

Efficiency/Flexibility

Rapid technological development nowadays significantly changed existing business processes. The convenience, transparency and the high quality of services provided by developers of the digital platforms give new prospective to both employers and employees, especially when it comes to efficiency.

➤ **Employees (contractors)**

The formal status of employees under a digital platform work is mostly self-employment. Thus, the work under digital platform assignments gives employees the opportunity to depend on their own time-management decisions only (within the deadlines set by the employer). Thus, they might be very efficient at work and achieve certain flexibility in time and place of work. They are also able to act as individuals-entrepreneurs, to develop their own business models and market their services at very low cost.

Depending on the used platform, employees may also take advantage of administrative and management services provided by the platforms' developers acting as intermediates.

➤ **Employers (clients)**

At no HR-administrative costs and resources, employers use digital platforms as digitalized intermediates (agents) searching and finding them good and effective solutions for their current business needs. And most importantly, the goal is the work to be done in the fastest and most efficient manner, regardless of the physical location of the employee – no state borders matters anymore.

Having no obligation to enter into formal employment relations, employers using digital platforms for work allocation also save costs for paid leaves allowances, administration of personnel, equipment, office space, severance payments, etc. But most importantly, the crowd employment reduces significantly number of risks related to protection of employees' rights for the employers.

Transparency

The most developed (and as such the most popular) digital platforms matching employers and employees provide certain verification of the intentions and capacities of each party.

➤ **Employers (clients)**

To ensure quality of the services provided, some platforms stipulate rating systems of their users. Others perform quality verifications before employees are allowed to participate in platform activities. For example experts assess few work products samples. Further, regular checks and rates are available.

➤ **Employees (contractors)**

Part of the platforms set terms and conditions for publishing work offers by employers. They assess each offer before publishing it and further provide checks and rates of the employers.

Some platforms also provide means for ensuring pricing transparency. They may set minimum payment requirements for specific tasks. This allows cost and income predictability for each party.

Shared knowledge and professional development

➤ **Employees (contractors)**

Working under different assignments via digital platforms allows the employees to gain valuable broad working experience. It also gives opportunities for learning-by-doing, social exchange and recognition by other crowd employees and clients.

➤ **Employers (clients)**

The main motivation for the employers under digital platforms is the access to qualified personnel without limitations. The ratings and evaluations and the well-protected remuneration provided by some platforms establish competitive environment between employees and give opportunity to clients for a quicker completion of the assigned job compared to work under a standard type of employment assignment.

Related risks and disadvantages

Each of the advantages of the digital platform work may turn into a disadvantage depending on the specific case and business process.

The efficiency and flexibility for the employees may turn into social isolation, poor working conditions and lower social status due to the constant work from home alone. Depending what kind of platform services are available or not, the employees may face serious issues and bear unexpected administrative burden for payment collections and secure of the income.

All of the advantages and disadvantages of the digital platform work might be seen in any of the other new forms of employment to a different extent. The balance between the pros and cons of each available employment form is hard to be found without preparation.

In order to find its own balance, it is of an essential importance for each party to make prior assessment of all forms of employment available for the respective relations. Legal forms are not just the needed “clothes” that we need to dress before we go out and get with the real business. Legal forms are the ones that make us flexible, if we know how to use them.

Thus, when finding the balance by looking for the perfect dress (a form of employment), you may start your assessment with the following questions. The answers will guide you through all options and will show you what suits you the best:

For what kind of tasks the respective type of employment might be used for?

What I may share under no-long-term-commitment relation?

How I protect my intellectual property and trade secrets?

What quality of services do I require?

What are my requirements for payment/when I want to pay?

Can I take the risk of poor performance / Can I take the risk of no job available and for what period of time?

Which is more important: efficiency or protection?

If I am flexible now, will I be secured and protected tomorrow to the extent that I want in long-term prospective?



Vesela is a partner at [Dinova Rusev & Partners](#) law office. Her experience is focused on advises on all aspects of employment law and personal data protection. She has extensive experience in structuring and drafting different types of employment agreements, internal rules and procedures including share option plans, whistleblowing systems, etc. She also advises on matters related to Societa Europea, dismissal and redundancy schemes as well as all issues, related to temporary agency work and data protection. She defends clients' interests in unfair dismissal cases and data protection issues.

Vesela is also well recognized within the structures of the international employment law organizations DRP participates, namely the European Employment Lawyers Association and the Employment Law Alliance. Her high level of expertise in the above areas is well recognized by different educational establishments and she is frequently invited as the speaker of the conferences outlining the employment and data protection legal issues towards different businesses in Bulgaria and Europe.