

Fianna Fáil and Fine Gael reveal prejudices on labour contracts

Some party representatives ran for cover on EU directive laying down presumption worker is an “employee”, while campaigners against the likes of Uber and Amazon faced untold abuse

By Fiachra Ó Luain

Platform work is work organised through an app, such as UberEats, Deliveroo and Just Eat.

In December 2022, the Employment (EMPL) Committee of the European Parliament considered the Terms of Reference for the new EU Platform Work Directive, passing the most progressive version of the amendments on offer. A plenary vote on February 2 reaffirmed this decision.

Sweden, currently holding the Presidency of the EU Council, is under pressure to reopen debate on consensus-agreed definitions of worker status. This means that the final Terms of Reference for the Directive may not be

finalised, and transposed into national law of Member states, until after the EU Council presidencies of Sweden’s Right-wing coalition and then Spain’s Pedro Sanchez-led Left-wing coalition.

Despite intense and sustained lobbying from platform-dependent companies aimed particularly at European People’s Party (EPP) MEPs, the key Article 4 pertaining to the “presumption of employment” was passed by the European Parliament and it is on this there is most focus. As it stands, the burden of proof will be on such companies to prove that any workers they want to regard as self-employed are genuinely self-employed. Otherwise they are by default to be considered employees.

Wexford-native James Farrar, whose legal case secured employment rights for 70,000+ workers in 2021 after vanquishing Uber in the

UK Supreme Court, expressed concern right up until the December 12 vote that the Fine Gael MEP for Midlands-North-West, Maria Walsh, the only Irish MEP on the EMPL Committee, would join her EPP colleagues in abstaining or voting against the definitions of Article 4. This, in his opinion, would have neutered the eventual Directive. Walsh’s Swedish EPP colleague, Sara Skyttedal MEP appears now to be leading efforts to reject the mandate and reopen the Directive for amendments, to further water down an already compromised agreement.

Walsh has still not clarified how she voted on December 12 but, before the vote, committee members were warned that any MEP who voted against or abstained on measures designed to protect the welfare of workers, would be plied with Freedom of Information requests pertaining to any lobbying directed at them and their parties. All eyes are on such matters following exposure last year of the ‘Uber files’ in which Uber Chief-lobbyist in Europe turned whistleblower, Mark MacGann exposed the extent to which Fine Gael and other EPP members had been lobbied by companies in favour of ‘light-touch’ regulation.

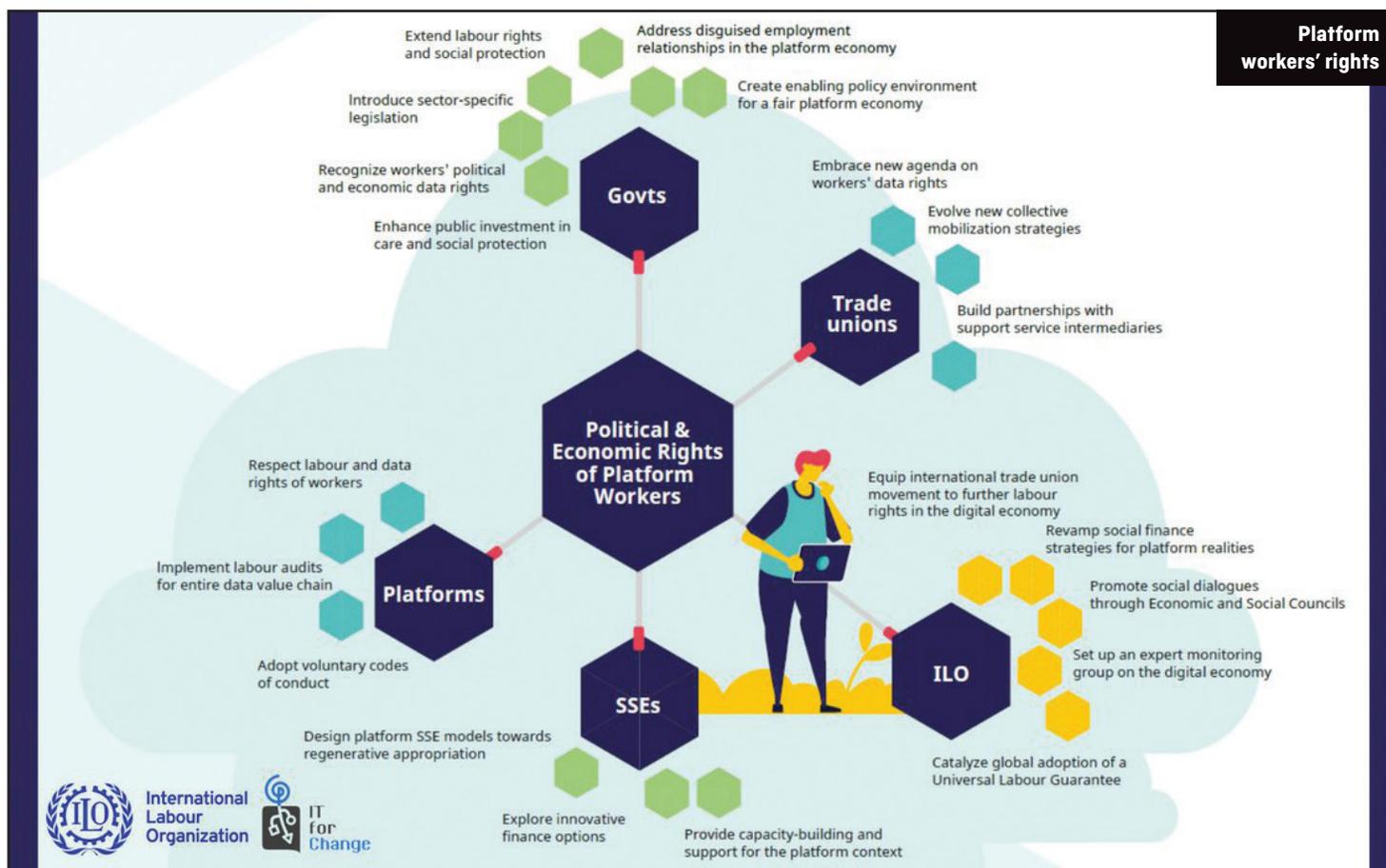
International recognition of the rights of oppressed app workers to date has been largely down to recent landmark legal cases and organisation by workers, activists and unions through the likes of the European Transport Workers Federation and Worker Info Exchange that study and challenge the algorithmic exploitation of workers.

In March 2020 Stamp Two (student) visa-holding delivery workers had a meeting through English and Portuguese with then Tánaiste and Minister for Enterprise Leo Varadkar, supported by SIPTU and others familiar with the issues faced by non-EU workers and students in Ireland. In the months preceding, a series of well-attended meetings took place where workers expressed their concerns to Fianna Fáil Senator Mary Fitzpatrick, members of An Garda Síochána, Sinn Féin, Labour, People Before Profit and the Socialist Party.

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Increasing violence and decreasing pay were the main issues raised by workers present at these meetings though the problematic issue of worker misclassification was kicked down the road by the Department as an issue that would need to be legislated for at European level before it could be dealt with here, nationally.

Leo Varadkar stated that before this meeting he had not had any contact with Deliveroo and did not know the extent of the exploitation that occurs through the apps. He suggested Workplace Relations Commission scrutiny of Deliveroo practices. He held a subsequent meeting with Deliveroo and was to get back to us, as was his Assistant Secretary Clare Dunne who said she would send on a relevant contact in the Department of Social Protection regarding the status of workers. Over two years later and we are still waiting for both.

After the meeting with Leo Varadkar, workers and organisers who had been present were subjected to a series of concerted attacks based on anti-solidarity disinformation and smears, violence and bike-theft, leading to at least one worker being coerced into disavowing their activism and moving out of Dublin. Those behind this were, among others, individuals

who for a number of years have been receiving passive income from the many non-European workers who need to rent these accounts at up to €100/week in order to make ends meet here.

They characterised efforts to improve worker safety, pay and conditions in emotive McCarthyite terms, more relevant to the fault lines of recent Lula/Bolsonaro divisions in Brazil than the domestic situation here in Ireland, in an attempt to inhibit the involvement of the exploited workers here who may have arrived to Ireland from diverse political backgrounds but are all facing the same problems here.

Sinn Féin's Louise O'Reilly, who helped the workers prepare for the Varadkar meeting, outlines the problems arising from the practice of bogus self-employment as being the creation of 'winners' in the form of employers who fail to classify their workers as employees. They win because they have "no PRSI to pay, no pension contributions to make, no sick, paternity or maternity leave to pay, no redundancy payments, no annual leave or public holiday pay".

Meanwhile those losing out are the workers who have "less entitlement to social welfare supports if and when they need them, no access

to an occupational pension, no paid sick, paternity or maternity leave, no redundancy pay, no fixed breaks or rest periods, no paid annual leave or public holidays".

Revenue is the other "big loser" as "huge losses in PRSI contributions mean serious consequences for the public finances and the Exchequer".

Responding to the passage of the amendments through the EMPL Committee, former MEP and PBP spokesperson for workers' rights, Paul Murphy TD, welcomed the news as the "result of workers and trade unions at a national and European level pushing for such legislation...It will also need to be matched with on the ground organising - ultimately the best defence of a worker's rights is to be organised in a union".

Labour Senator Marie Sherlock focused on another key element of the amendments that were passed, human oversight of artificial intelligence or algorithmic management of workers: "We need to recognise that it is a growing part of the labour market and ensure that the algorithms managing workers are transparent and regulated". Sherlock launched the 'Protection of Employment (Platform Workers and Bogus Self- Employment) Bill 2021', in the same month as our meeting with the current Taoiseach.

Leo Varadkar, who in March 2020 quoted Terminator's "There is no fate but what we make for ourselves", has yet to say if he will accept and support the version of the amendments already

agreed by consensus twice in the European Parliament.

Nor has any member of Fine Gael or Fianna Fáil responded to requests for a statement on these recent developments from a party perspective.

We do know that in 2021 members from both of the main coalition parties supported the introduction of a “third category” of worker, neither employee nor self-employed, but this was dropped by Fianna Fáil and Fine Gael after workers made clear that this was not what was needed nor was it something that had been asked for by workers.

The only coalition members who responded to our requests for comment are the Greens, with Dublin MEP Ciarán Cuffe stating that he is “very happy with the agreement” as it will help stop “the race to the bottom whereby companies that treat their workers fairly are crowded out of the market by their less scrupulous competitors. The freedom to work whenever and wherever you want has become a dystopian future for many. We must ensure that platform working is regulated and produces decent pay and conditions for all”.

A spokesperson for the Department of Enterprise, Trade and Employment stated: “Ireland has mechanisms for the determination of employment status and supports the ambition behind this EU proposal on improving working conditions in Platform Work”.

To square this circle the national governments are going to have to solve the interdepartmental Rubik’s cube of work permissions for non-EU migrants. In Ireland the bulk of this work is done by those on Stamp Two visas trying to provide for their education and survival in Irish cities. Stamp 2 workers are prohibited by the terms of their visas from being self-employed and therefore cannot legally be platform workers even if companies such as Deliveroo insist on purporting to designate them as such. Such companies are of course aware that their business models flout such basic employment rules.

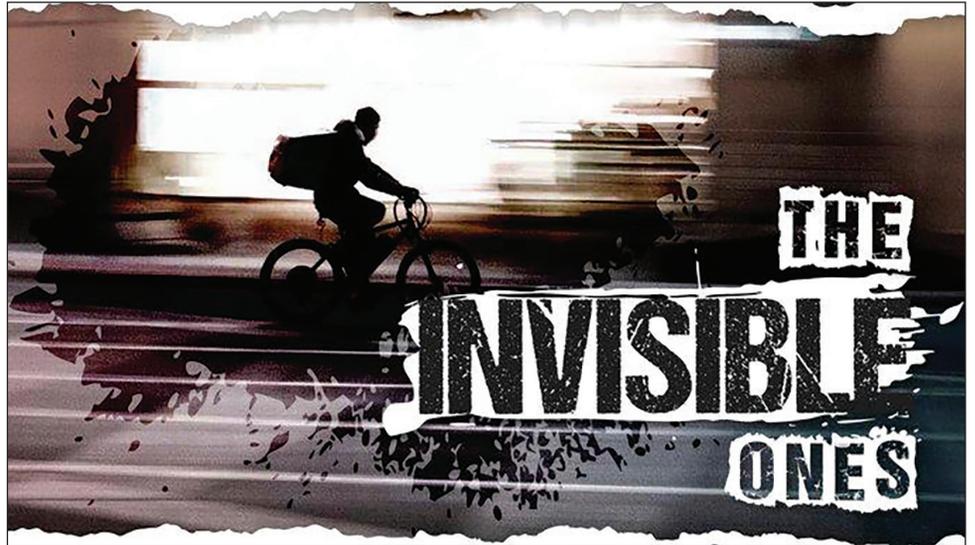
They often earn less than the minimum wage doing deliveries, and are currently prohibited from owning their own accounts on platforms such as Deliveroo and UberEats, forcing them to ‘rent’ these accounts from Europeans or Stamp 4 visa holders who, unlike Stamp 2 visa holders, can legally work full-time and can be legally “self-employed”.

This results in a passive income for the official account owners from the labour of more vulnerable Stamp Two workers who have to risk life-and-limb, uninsured. From what can be observed, these companies have built their business model on such “grey-area” dynamics.

Whenever they make a rare appearance to distribute their branded bags and clothing to workers here in Ireland, those working on behalf of management, at least in the case of Deliveroo, conspicuously refuse to identify themselves nor



The interdepartmental Rubik’s cube of work permissions for migrants yields a passive income for the official account owners from the labour of vulnerable non-European workers who have to risk life-and-limb while working without insurance, leading the basic payment per delivery for a Deliveroo worker in Ireland to drop from €4.39 to €2.90.



do they make any attempt to identify the workers who seek this equipment from them. From 2019 the estimated number of Deliveroo accounts in Ireland has jumped from 2500 to 5000, while the basic payment per delivery for a Deliveroo worker in Ireland has dropped by 30%, from €4.39 to €2.90.

At a mouse-click in London, significant drops in pay often come without warning, and always with zero consent from workers here. Moreover the company closed its Dublin office during the same period and now operates everything in Ireland, including the gathering of metadata from workers here, remotely from London. It is unclear as to what extent they have been paying any corporation tax here, despite Deliveroo having vastly expanded its business here. Irish Amazon Prime members are now being offered free deliveries via ‘Deliveroo Plus’ following a deal with Amazon, as pay and conditions continue to deteriorate. ‘The Invisible Ones’ is a short YouTube documentary on the plight of Dublin delivery workers by Jesús Tiscareño and fellow Griffith College Stamp Two students.

Minds have again focused since February 28 when Revenue sent out tax demands to delivery account holders, after over five years, on the very same day that the European Court of Justice ruled against Only Fans’ attempt to avoid paying similar taxes, by passing them on to account holders.

Success to date has only been possible through meaningful multi-lingual engagement between migrant workers of all backgrounds, the International Transport Workers Federation and others, with the welcome support of parties across the Irish political spectrum.

Workers appreciate when parties and politicians listen to their concerns without trying to impose their own ideological or party agendas, respecting the space in which an interlingual consensus is sustainably built within this emerging demographic of precarious workers in Ireland.

Platform workers will remain at risk from evolving technology for the foreseeable future for example the National Artificial Intelligence Strategy was recently launched by Robert Troy and Tánaiste Micheál Martin who pushed for the use of artificial-intelligence technologies in the workplace. Unsurprisingly, there was no mention of safeguards.

In the era of plutocracy and technocracy, workers are always at least one step behind. Notwithstanding this, meaningful engagement and international organisation is bearing fruit, proving that passivity to algorithmic management and exploitation by Platforms Giants is not the fate that we are choosing for ourselves. **L**

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