I. V. Lagutina

TRENDS IN THE DEVELOPMENT OF PLATFORM EMPLOYMENT

Formulation of the problem. One of the new and fast-growing forms of employment is platform employment. According to the Organization for Economic Cooperation and Development, online platforms are the result of innovation in technology and one of the new manifestations of globalization [1].

The International Labour Organization divides digital labour platforms into two categories: 1) web-based online platforms that bring together a customer and a contractor, i.e. an individual or business and a contractor who will perform paid work remotely (freelance and competition platforms (e.g. Upwork, Freelancer), microtask platforms (Appen, Microworkers), competitive programming platforms (Topcoder, Codeforces), medical consultation platforms (DocOnline); 2) location-based platforms that bring together a client and a business, while services are provided in person, in a certain location, and the contractor is often a third party; this type includes, in particular, repair services, taxi and delivery, household services, homework, care services [2, p. 40].

There are no international legal instruments that comprehensively regulate the operation of digital labour platforms. However, across the United Nations (UN) system, the platform economy has been addressed in various reports, including those on digital inclusion [3] and emerging challenges related to the use of personal data [4].

The **purpose** of this article is to study the quality of employment on digital labour platforms, paying special attention on directions of employment transformation in the context of digitalization of the global economy.

Analysis of recent research and publications. The existing literature on platform employment mainly addresses the following aspects: formulating a definition of platform employment and platform employee; assessing risks and opportunities for employees and enterprises; developing mechanisms for social protection of platform employees. It has already been subjected to scientific analysis by such domestic and foreign scientists as D. Acemoglu, M. Aleksynska, P. Bai, K. Barefoot, X. Cai, L. Charles, Y.P. Chen, Z. Chen, P. Choudary, D. Curtis, W. Craig, S. Daniel, M. Graham, D. Green, D. Guellec, R. Heeks, X. Huang, C. Freudenberg, Y. Jiang, W. Jolliff, K. Lenaerts, C. Liu, Q. Kong, J. Nicholson, P. Restrepo, L. Schulz, S. Shuting, V. De Stefano, A. Stewart, Y. Zhang, Q. Zhang, X. Zhu and others.

Presentation of the main material of the study. There are typically at least three parties involved in digital platform work: a digital labour platform, a client and a digital platform worker. A digital labour platform is "an online facility or marketplace operating on digital technologies (including the use of mobile apps) that are owned and/or operated by an undertaking, facilitating the matching between the demand for and supply of labour provided by a platform worker". A digital platform employee is an individual who provides labour, intermediated with a greater or lesser extent of control via a digital labour platform, irrespective of their legal employment status. Both the care receiver (the client) and the care provider (the digital platform worker) using digital labour platforms for health and social care purposes may find themselves in a vulnerable situation that presents severe risks to their safety and health. Depending on the specific case, the balance of power may tip in favour of the care receiver or provider, making both vulnerable to abuse, harassment and discrimination. This is especially the case when the care provision takes place inside the client's home, and the workers become invisible (e.g. in domestic care work, which tends to attract migrant women workers, who are particularly vulnerable to exploitation and have a high risk of being wrongly classified as self-employed)[5].

The following digital platforms [6] should be singled out: transactional − a product, technology or service that acts as a channel (or mediator) between users of a platform to facilitate exchange and transactions (for example, Alibaba, Amazon, Uber, Airbnb, Baidu); innovative − a product, technology or service that serves as a certain basis of the innovation ecosystem for the own development of additional products, technologies or services by other companies with a less organized innovation system (for example, Windows, Android, Salesforce); integrated − a product, technology or service that is both transactional and innovative platforms (for example, Apple); investment − platforms consisting of companies that implement the platform's investment portfolio strategy as a holding and/or active investor of the company.

In the European Union, it is estimated that around 28 million people (in 2022) are involved in such work arrangments, with the number expected to rise to 43 million by 2025 [7].

Unionen in Sweden and IG Metall in Germany have agreed to work together to find ways organise the growing number of people working in isolation through online platforms. It is estimated that some 700,000 people in Sweden are earning their living through 'crowd-working': selling their labour to employers via platform-based companies, a phenomenon also known as the sharing or 'gig' economy. Many of these online jobs are precarious and badly paid. ILO research indicates that workers suffer from lack of autonomy, constant pressure and no way of claiming their rights.

Many platform workers are self-employed rather than employees: minimum wage rules and health and safety standards do not apply to them. The problem to be addressed goes far beyond litigation like the one Uber was involved in: there is a growing understanding that the traditional distinction between employment and self-employment does not fit the realities of digital labour. The following areas of legislative reform can be identified: 1) rethin-

king the concept of "employee", expanding the scope of protective labour laws; 2) introducing an intermediate category between employment and self-employment (already happening in a number of countries); 3) a more radical measure – extending labour laws to the self-employed, provided that they earn up to a certain amount; 4) developing special legal regulation of labour on online platforms. For example, a revision of the approach to protecting the life and health of employee, since the traditional emphasis on protecting from hazardous physical factors of production in the context of digitalization of labour should shift towards psychosocial problems [8].

To avoid a downward spiral in working conditions and pay, trade unions are stepping up to the challenge of organising and defending such employees [9].

By its essence, platform work, in the case of its implementation within the framework of labour relations, is a continuation of the construction of borrowed labour in the form of outsourcing, which is characterized by the entry into labour relations of a subject of a third party of an employment agency [10, p. 194].

Employment on platforms is often associated with the problem of hidden employment or dependent self-employment, i.e. concealment by the parties of the real essence of the legal relationship in order to avoid obligations under the employment contract regarding the payment of taxes, payment of social contributions, registration of employment relationships with employees.

There is no consensus on how to classify such workers, whether as employees or self-employed [11]. The lack of unanimity is a consequence of the diversity of factual circumstances and regulatory frameworks. Court decisions on classification issues have widely applied the principle of factual priority rather than strict interpretation of contractual terms. Courts within a single jurisdiction have sometimes made conflicting decisions [12] regarding workers in the same or substantially similar situations, which may be due to the courts' reliance on multi-factor criteria that are subject to interpretation.

The use of digital technologies to coordinate work processes in an organisation is also known as the "platformisation of work". It should be distinguished between: 1) activity monitoring (the monitoring of activities carried out with digital tools, such as monitoring of computer use, emails, etc.); 2) physical monitoring (the monitoring of physical presence in the workplace, such as tracking of entry and exit or monitoring working times); 3) automated direction systems (e.g. automatic allocation of time / shifts); 4) automated evaluation systems (e.g. use of ratings to allocate work) [13].

In the Concept of Development of the Digital Economy and Society of Ukraine for 2018-2020, approved by the Decree of the Cabinet of Ministers of Ukraine dated January 17, 2018 No. 67-р38, among the technological concepts that should be taken into account when implementing initiatives for the digitization of state institutions, digital state platforms are noted.

According to the aforementioned Concept, «digital state platforms are a concept for the formation of state bodies aimed at simultaneously improving the quality of services, optimizing the number of civil servants and reducing costs. «Digital» platforms allow you to solve tasks, increase efficiency, reducing the cost of operations and the time of execution. State bodies use «digital»

platforms to simplify and optimize internal processes, improve interaction with citizens and reduce costs. Despite the announced development of state digital platforms, no full-fledged state platforms have been created in Ukraine today. It can be noted about the Unified state web portal of electronic services «Portal Diya», the online digital literacy platform «Diya. Digital education», online platform «Action. Business» as prototypes of state digital platforms.

Several job platforms, whether focusing exclusively on telework or publishing remote positions alongside in-person roles, have been created over the past year with the aim of supporting Ukrainians. These include EmployUkraine, UA Talents, and JobAidUkraine [14].

The nature of work on platforms may expose employees to more serious occupational risks, in particular psychosocial risks such as stress, anxiety, burnout and depression [15].

Platform employment is heterogeneous. The platform architecture has an important impact on employees' autonomy, as well as their working conditions and wages [16].

Fairwork's research, conducted across 38 countries and 190 platforms (most of which operate in multiple countries), shows that platforms can widen the gender pay gap, reduce women's labour force participation, and create gender-segregated labour markets [17].

Besides, factors aggravating occupational and health risks and challenges are: 1) unclear employment status and contract (employees become responsible for their own safety and health); 2) algorithmic management (concentrated power in the platform; rewards or penalties based on employees' performance; lack of transparency of the algorithm; reduced employees' autonomy, job control and flexibility; exhaustion, anxiety, stress; isolation and lack of social support; cause sleeping problems, exhaustion, stress, depression, etc.; limit employee organisation and collective bargaining; complicate implementation of preventive measures and access to OSH services); 3) work transience and boundaryless careers (job and income insecurity; lead to mental and physical health issues) [18].

Owing to standard patterns in the service delivery process, platforms exercise considerable control over the terms of exchange using various technological surveillance mechanisms to track service delivery. Freelancing platforms like UpWork exercise surveillance by taking regular screenshots of the freelancer's screen, recording keystrokes and mouse clicks, and by using the worker's webcam to determine when the freelancer is actually working [19]. Home-care platform Honor connects caregivers with customers and monitors the exchange by determining whether caregivers arrive on time, whether they check social media or take calls while on the job, and whether they are walking around, rather than sitting down, while logging in specific tasks [20].

It remains an open question whether fair representation of workers in the digital economy is achievable, especially when it comes to platform employment. The first step is to overcome the fragmentation of workers. For example, one way to achieve this goal was the establishment of an ombudsman's office in 2017 by the German metalworkers' union IG Metall, together with the German Crowdsourcing Association and eight influential job platforms. The body,

chaired by a judge at the Frankfurt Labour Court, consists of an equal number of platform representatives on the one hand and representatives of IG Metall and platform workers on the other. It is intended to mediate conflicts between workers, platforms and customers and to monitor compliance with the code of conduct that the participating platforms agreed on back in 2015 as a form of voluntary self-regulation. At the same time, IG Metall has created a resource for platform workers to communicate with each other and with the union. All these efforts cannot be limited to the national level, and transnational cooperation between trade unions is a good sign [21].

Strengthening information security is necessary, as the possibilities for collecting and processing data using digital tools are increasing dramatically, which puts the protection of employees' privacy at risk. The employer should not act at his own discretion when it comes to what data about employees is collected, stored and used. Commercial secrets and any official information in general are equally at risk of illegal circulation.

An interesting trend in the development of platform employment, reducing the risks of social security of platform employees, is associated with the idea of »platform cooperativeism», the purpose of which is to find alternative ways to manage the CPT and guarantee the protection of employees and consumers [22]. Our analysis showed that a characteristic feature of the development of platform employment in Brazil is precisely platform cooperatives, that is, the creation of self-governing cooperatives that unite employees.

The impact of digitalisation on society and the world of work is growing and will only become more pervasive. But the transformation is a multifaceted one. All this indicates the need to fill the gap regarding necessity strengthening the regulation of working time issues, by providing employees with a specific right to disconnect from a digital labour platform in certain cases and addressing the issue of payment for waiting time; monitoring and enforcement of occupational and health regulations; expanding the coverage of social security systems; clarifying the rights related to the protection of employee's personal; ensuring the protection of employees and defining the responsibilities of platforms in this regard; establishing accessible and appropriate dispute resolution mechanisms, particularly taking into account the specific nature of work on platforms and its nature.

Bibliography

1. OECD (2019). An Introduction to Online Platforms and Their Role in the Digital Transformation. OECD Publishing, Paris.

2. ILO (2021). World Employment and Social Outlook 2021: The role of digital labour platforms in transforming the world of work International Labour Office. ILO, Geneva.

3. Digital Economy Report Pacific Edition 2022: Towards Value Creation and Inclusiveness, 2023.

4. Digital Economy Report 2021: Cross-border Data Flows and Development – For Whom the Data Flow, 2021.

5. Digital platform work in the health and social care sector: implications for occupational safety and health. URL: https://osha.europa.eu/en/publications/digital-platform-work-health-and-social-care-sector-implications-occupational-safety-and-health

6. Evans P.C., Gawer A. The Rise of the Platform Enterprise.The Center for Global Enterprise. 2016. URL: https://www.thecge.net/wp-content/uploads/2016/01/PDF-WEB-Platform-Survey_01_12.pdf.

7. EU rules on platform work. URL: https://www.consilium.europa.eu/en/policies/platform-work-eu/#platform%20work

8. Manfred W. 2021. "Challenges for Labour Law in the Era of Digitalization." The Future of Work: Labour Law and Labour Market Regulation in the Digital Era. Ed. by A. Perull. Wolters Kluwer.

9. Fernбndez-Macнas, E., Urzi Brancati, M. C., Wright, S., & Pesole, A. (2023). The platformisation of work. Publications Office of the European Union. URL: https://publications.jrc.ec.europa.eu/repository/handle/JRC133016

10. German and Swedish unions unite to defend crowdworkers. URL: https://www.etuc.org/en/german-and-swedish-unions-unite-defend-crowdworkers

11. Велика Українська енциклопедія: у 20 т. Том 11: Трудове право. редкол. С. М. Прилип-ко, М. І. Іншин, О. М. Ярошенко. 2018. 776 с.

12. ILO, Decent Work in the Platform Economy.

13. Stefano De V., "Negotiating the Algorithm": Automation, Artificial Intelligence and Labour Protection, ILO Employment Policy Department, Employment Working Paper No. 246, 2018.

14. Displacement, integration, and return: What remote work possibilities for Ukrainians? URL: https://www.icmpd.org/blog/2023/displacement-integration-and-return-what-remote-work-possibilities-for-ukrainians

15. Karolien Lenaerts et al., Digital Platform Work and Occupational Safety and Health: A Review (EU-OSHA, 2021).

16. Quality in the Platform Economy // ILO: URL: https://www.ilo.org/wcmsp5/groups/public/---dgreports/---cab-inet/documents/publication/wcms_618167.pdf

17. Gender and Platform Work: Beyond Techno-Solutionism. Report. Fairwork, 2023 // Fairwork. URL: https://fair.work/wp-content/uploads/sites/17/2023/07/Gender-report-one-page-handout-A4-3.pdf

18. Digital platform work: implications for occupational safety and health. URL: https://osha.europa.eu/sites/default/files/documents/HWC23-25_Digital_platform%20work_en_0.pptx

19. Ajunwa, I.; Crawford, K.; Schultz, J. 2017. "Limitless worker surveillance", in California Law Review, Vol. 105, pp. 735–776. Available at: http://www.californialawreview.org/wp-content/uploads/2017/07/3Ajunwa-Schultz-Crawford-36.pdf

20. Said C. 2015. "Honor lands $20 million for senior in-home care agency" in San Francisco Chronicle, 2 Apr. Available at: http://www. sfchroni-cle.com/business/article/Honor-lands-20-million-forsenior-in- home-care-6173606.php.

21. Manfred W. 2020. "Challenges for Labour Law and Industrial Relations. "Global labour and employment relations: Experiences and challenges. Eds D. Kim, M. Rцnnmar. Seoul: Parkyoung Publishing & Company.

22. Interview with Trebour Schol – connecting cooperati vesto the future of work, digitally. Report. International Labour Office. Geneva: ILO // ILO: [сайт]. URL: https://www.ilo.org/global/ topics/cooperatives/news/spotlight/WCMS_616775/lang--en/in- dex.html].

S u m m a r y
Lagutina I. V. **Trends in the development of platform employment.** – Article.
The development of the digital economy is leading to significant changes in the sphere of labour and employment around the world, manifested in the transformation of the traditional employment structure, increased labour mobility, and the expansion of the use of non-standard forms of employment. One of the new and rapidly developing forms of employment is platform employment. And despite the fact that it still occupies a small share of the overall labour market, employment through online platforms is a clear proof of technological shifts and globalization.

Today's platforms limit employee mobility and choice by preventing workers from moving their reputation data to other platforms. Enabling workers' access to data, particularly reputation data, would increase their bargaining power by reducing their dependence on a particular platform.

Regulation of platforms must embrace twenty-first century complexity. Platforms are complex, emergent systems and cannot be effectively regulated using industrial-era regulation. They scale to millions of users, sometimes billions, which evolve through the use of vast amounts of data and employ learning algorithms that evolve their operations over time. The data-ingesting processes underlying optimization of the platform business model can also be harnessed in the service of optimal regulation.

Conclusions are made about the high degree of differentiation of the quality of employment on digital labour platforms depending on the method of performing work (online or offline), the presence of platform work as the only employment of the employee, the degree of control of the platform over the employee and the type of work performed. Additional characteristics of work are identified, in addition to the lack of social protection, which worsen the quality of platform employment compared to traditional.

Key words: platform employment, platform economy, non-standard forms of employment, labour rights.

Анотацiя
Лагутiна I. В. **Тенденцiї розвитку платформної зайнятостi.** – Стаття.

Розвиток цифрової економiки призводить до значних змiн у сферi працi та зайнятостi в усьому свiтi, що проявляється у трансформацiї традицiйної структури зайнятостi, збiльшеннi мобiльностi робочої сили та розширеннi використання нестандартних форм зайнятостi. Однiєю з нових форм працевлаштування, яка швидко розвивається, є працевлаштування на платформi. I незважаючи на те, що вiн все ще займає невелику частку загального ринку працi, працевлаштування через онлайн-платформи є яскравим доказом технологiчних зрушень i глобалiзацiї.

Сучаснi платформи обмежують мобiльнiсть i вибiр спiвробiтникiв, не дозволяючи працiвникам переносити данi про свою репутацiю на iншi платформи. Надання працiвникам доступу до даних, зокрема даних про репутацiю, збiльшить їхню переговорну силу, зменшивши їх залежнiсть вiд певної платформи.

Регулювання цифрових платформ має охоплювати складнiсть двадцять першого столiття. Платформи є складними системами, що виникають, i їх неможливо ефективно регулювати за допомогою регулювання iндустрiальної епохи. Вони масштабуються до мiльйонiв користувачiв, iнодi мiльярдiв, якi розвиваються завдяки використанню величезних обсягiв даних i використовують алгоритми навчання, якi з часом розвивають їхнi операцiї. Процеси надходження даних, що лежать в основi оптимiзацiї бiзнес-моделi платформи, також можна використовувати для оптимального регулювання.

Зроблено висновки про високий ступiнь диференцiацiї якостi зайнятостi на цифрових трудових платформах залежно вiд способу виконання роботи (онлайн чи офлайн), наявностi роботи на платформi як єдиного заняття працiвника, ступеня контролю за платформу над працiвником i вид виконуваної роботи. Виявлено додатковi характеристики працi, окрiм вiдсутностi соцiального захисту, якi погiршують якiсть платформної зайнятостi порiвняно з традицiйною.

Ключовi слова: платформна зайнятiсть, платформна економiка, нестандартнi форми зайнятостi, трудовi права.