Anna Moskal

Collaborative Platforms in the European Union from the Standpoint of Sustainable Development

COLLABORATIVE PLATFORMS IN THE EUROPEAN UNION FROM THE STANDPOINT OF SUSTAINABLE DEVELOPMENT

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Preface

This monograph is a final product of the research conducted in the "Talent Management" grant at the Jagiellonian University in Cracow, Poland. It reflects my research interests, which are located at the complex nexus of new technologies, law, and economy. In this paper, I aim to find the best hypothetical model for regulating collaborative platforms in the European Union from the standpoint of sustainable development.

The idea behind this research stems from my fierce passion for travelling, which has given me the opportunity to observe both the beneficial and harmful effects of collaborative platforms, such as Airbnb, Uber, and Blablacar, in various parts of the world. What caught my attention, besides the numerous controversial opinions and ongoing fierce debate on this issue, was a large array of legislative approaches taken by the national and local authorities towards these new business models. Their actions range from a complete lack of regulation, through rules of varying levels of restrictiveness, to total bans. The problem of regulating collaborative platforms is particularly cumbersome in the context of the European Single Market, which was established specifically to remove barriers within the European Union and ensure legal certainty across Member States. Hence, I decided to limit the scope of my research to this region.

The research conducted for this work has been supported by the Anthropocene Priority Research Area budget under the program "Excellence Initiative – Research University" at the Jagiellonian University. Thanks to this funding, I had the opportunity to participate in the Circular Economy and Sustainable Strategies course at the University of Cambridge. Not only did it broaden my knowledge and understanding of the circular economy, but it also enabled me to discuss my initial ideas on the regulation of Uber with Professor Khaled Soufani, who is an expert on economic growth and innovation. Furthermore, thanks to the grant, I was able to share interim results of my research at several national and international conferences, and expose my ideas to the opinions of professionals from around the world. These fruitful and insightful discussions helped me develop feasible solutions and recommendations for legislators. Therefore, I would like to express my appreciation to the Jagiellonian University for their trust in my research and provided funding.

My thanks also go to the Ryoichi Sasakawa Young Leaders Fellowship Fund for funding my five-month research stay as a visiting scholar at King's College London (KCL), during which I was able to access the rich collections of the KCL, Oxford University, and Cambridge University, including the most recent publications on the regulation of collaborative platforms in Great Britain. The contacts established during my stay at KCL have proven to be immensely helpful in understanding British policies and regulations. Overall, my research stay in London allowed me to add a new subchapter on the approach of the United Kingdom to collaborative platforms before and after its withdrawal from the EU on 1 January 2021.

I would like to express my sincere appreciation to my supervisor, Professor Piotr Bajor, who supported me in this endeavour and warmly welcomed my idea of conducting research in the intersection between law, economics, and new technologies. I am extremely grateful for his critical eye and excellent advice, which has always pointed me in the right direction, as well as for unceasing guidance and words of encouragement throughout the elaboration of this research. I am also thankful for his encouragement and assistance in seeking grants and fellowships, which enabled me to conduct my research abroad and broaden my perspectives both personally and academically.

In truth, the production of this work would not have been possible without the support and love of my family and friends, to whom I dedicate the results of this work. First of all, my parents and siblings for their unwavering support and love. Second my friends, Małgorzata Szymańska, Alex Roy, Szymon Pazera, and Aleksandra Sobarnia, whose encouragement helped me proceed with my work and application for the SYLFF scholarship. Last but not least, I would like to say special thanks to my partner Jack Davies for discussing my ideas and sharing his thoughts on the subject, as well as for language consultation.

I would also like to thank all my readers for getting to know this book. I hope you find this publication inspiring and thought-provoking, and truly enjoy reading it.

Cracow, 6th July 2022
Anna Moskal

Knowing where we stand, identifying the most pressing sustainability challenges and critically examining our performance is essential if we are to ensure a sustainable Europe in a sustainable world.

Paolo Gentiloni
European Commissioner for Economy

List of acronyms and abbreviations

AI	Artificial Intelligence
CEI	Collaborative Economy Index
CJEU	Court of Justice of the European Union
CDC	Chinese Centre for Disease Control and Prevention
CPI	Consumer Price Index
ECDC	European Centre for Disease Prevention and Control
ESI	Economic Sentiment Indicator
EU	European Union
GDP	Gross Domestic Product
ICTs	Information and Communication Technologies
IoT	Internet of Things
JRC	Joint Research Centre
LCA	Life Cycle Assessment
MGDs	Millennium Development Goals
SDGs	Sustainable Development Goals
SEUK	Sharing Economy UK
TEU	Treaty on the European Union
TFEU	Treaty of the Functioning of the European Union
UK	United Kingdom
UN	United Nations
US	United States of America

1. Introduction

Background

This publication addresses the issue of the collaborative economy in the European Union from the perspective of sustainable development. Collaborative economy platforms facilitate connections between peers interested in sharing underutilised resources, which can include everything from rooms, things, and objects, to people's time and skills. The collaborative economy, as a sector of the ecosystem of digital economy platforms, introduced a new triangular business model in which platforms play the role of intermediaries. They provide users with easy access to a wide range of products and services at lower prices compared to the traditional market. Although the concept of sharing and exchanging goods has long been practised, the Internet has allowed people to expand far beyond the real-life social networks of individuals or the region they live in. Due to progressive globalisation and the rapid expansion of digitalised society, as well as problems arising from urbanisation and overpopulation, collaborative platforms have flourished worldwide in the last two decades.[1] The collaborative economy, with its novel and innovative business models that completely revolutionised traditional markets and significantly shifted people's lifestyles and preferences, turned out to be a widely discussed socioeconomic phenomenon. The impact of the collaborative economy on the overall economy and society is so extensive that it is seen as one of the most remarkable components of the fourth industrial revolution, together with artificial intelligence (AI), the Internet of Things (IoT), big data, blockchain, cybersecurity, and 3D printing.[2]

The phenomenon of collaborative economy has drawn wide attention from various parts of society and generated a great deal of heated debates in the media and academic discourses in recent years. On the one hand, collaborative plat-

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[1] V. Hatzopoulos, *The Collaborative Economy and EU Law*, Oxford 2018, p. 2.

[2] See, e.g., K. Yeji, L. Minhwa, "Typology and Unified Model of the Sharing Economy in Open Innovation Dynamics," *Journal of Open Innovation: Technology, Market, and Complexity* 5, Number 4, 102, 2019; K. Schwab, *The Fourth Industrial Revolution: What It Means and How to Respond*, Foreign Affairs, published online on 12 December 2015, at <https://www.weforum.org/agenda/2016/01/the-fourth-industrial-revolution-what-it-means-and-how-to-respond/>, 1 June 2022.

forms offer consumers more choice at lower prices, create new jobs, and meet the need for communication and connection in society. The European Commission, based on a PwC study,[3] estimated that gross revenue in the European Union from collaborative platforms would be € 28 billion in 2015, and expects an increase of up to € 572 billion by 2025.[4] Thus, many look at collaborative platforms in the hope of huge economic profits they can generate. Moreover, supporters of the collaborative economy claim that it promotes more eco-friendly business models by extending the lifespan of objects and encouraging recycling.[5] On the other hand, the most popular collaborative platforms, such as Uber and Airbnb, are frequently described as cutthroat global corporations that disrupt the traditional market and significantly contribute to environmental damage. They are accused of hiding behind the umbrella term of a sharing economy to operate in an unregulated or not fully regulated space. Therefore, opponents of the collaborative economy consider it a "low cost" access economy,[6] which benefits from underpaying workers. Critics also point out that rating systems, which are commonly used by most collaborative platforms, destabilise social relations. The rapid growth of collaborative platforms in the EU in recent years has raised valid burning questions for local, national, and European-level regulators. They have to assess the economic, social, and environmental profits and costs of these new form of business models, as well as address a series of complex regulatory challenges in a number of areas, including unclear employment status of the workers, tax enforcement, anti-discriminatory rules, data privacy, cyber security, market access, and unfair competition.

Literature Review and Relevance of the Subject

Although numerous books and articles have been dedicated to the phenomenon of collaborative/sharing economy,[7] only a small percentage of them examine

[3] PwC, *Assessing the Size and Presence of the Collaborative Economy in Europe*, April 2016. The study has been requested by the European Commission (DG GROW) in order to o assess the size and presence of the collaborative economy in Europe. The study is available at: <https://www.pwc.es/es/publicaciones/digital/evaluacion-economia-colaborativa-europa.pdf>, 1 June 2022.

[4] European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A European Agenda for the Collaborative Economy*, COM/2016/0356, Brussels 2016, p. 2.

[5] A. Acquier, V. Carbone, "Sharing Economy and Social Innovation," in: N.M. Davidson, M. Finck, J.J. Infranca (eds), *The Cambridge Handbook of the Law of the Sharing Economy*, Cambridge 2018, pp. 51-64.

[6] F. Bardhi, G.M. Eckhardt, "Accessed-Based Consumption: The Case of Car Sharing," *Journal of Consumer Research*, Volume 39, Issue 4, December 2012, pp. 881-898.

[7] See, e.g., N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*; R. Belk, G. Eckhardt, F. Bardhi, *Handbook of the Sharing Economy*, Northampton–Cheltenham 2019; D. McKee, F. Makela, T. Scassa (eds), *Law and the "Sharing Economy" – Regulating Online Market Platforms*, Ottawa 2018; L. Pettersen, "Sorting Things Out: A Typology of the Digital Collaborative Economy," *First Monday*, Volume 22, Number 8, August 2017.

the issue specifically within the EU,[8] and even fewer analyse it from an environmental perspective.[9] To the best of the Author's knowledge, prior to the publication of this work, there had been no published papers that focus on the evaluation of the approach of the European Union towards collaborative platforms from the standpoint of sustainable development.

Given that sustainability has become one of the top priorities of the EU and that digitalisation is described both as a potential "fire accelerant" and as an ecological "game changer,"[10] the Author believes that it is vitally important to develop the most optimal legal framework to ensure that collaborative platforms operate in the EU in the most sustainable, inclusive, and effective manner. Achieving this goal can help to unlock growth potential for the entire economy by creating jobs, prosperity, and commonwealth in the EU, as well as minimising the detrimental impact of collaborative platforms on the environment and traditional markets. Overall, the Author hopes that this study will add a new perspective to the lively debate on the future of collaborative platforms and provide feasible solutions and recommendations for EU legislator in a field in which research and professional practice frequently seem to be in discord. The results of this research will help develop optimal regulatory responses of governments at local, national, and EU levels, as well as the models of self-governance employed by platforms.

Research Objective

The main research objective of this paper is to find the best hypothetical model for regulating the collaborative economy in the EU with a view to mitigate the disruptive socio-environmental impacts of collaborative platforms. In order to

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8 See, e.g., V. Hatzopoulos, *op. cit.*; N.C. Rodrigues, "The Regulation of Collaborative Economy in the European Union," *UNIO – EU Law Journal*, Volume 5, Number 1, January 2019; European Parliamentary Research Service, P. Goudin, *The Cost of Non-Europe in the Sharing Economy: Economic, Social and Legal Challenges and Opportunities*, PE 558.777, January 2016; C. Cauffman, *The Commission's European Agenda for The Collaborative Economy – (Too) Platform and Service Provider Friendly?*, Maastricht European Private Law Institute, Working Paper No. 2016/07 http://dx.doi.org/10.2139/ssrn.2883845; M.M. Munkøe, "Regulating the European Sharing Economy: State of Play and Challenges," *Intereconomics*, Volume 52, Issue 1, January 2017, pp. 38-44.

9 See, e.g., Öko-Institut e.V., *Impacts of the Digital Transformation on the Environment and Sustainability*, Issue Paper under Task 3 from the "Service contract on future EU environment policy," Berlin, 20 December 2019, at <https://ec.europa.eu/environment/enveco/resource_efficiency/pdf/studies/issue_paper_digital_transformation_20191220_final.pdf>, 1 June 2022; S.K. Curtis, M. Lehner, "Defining the Sharing Economy for Sustainability," *Sustainability*, Volume 11, Number 3, January 2019; R. Perelet, "Environmental Issues in a Digital Economy," *The World of New Economy*, Volume 12, Number 4, June 2019, pp. 39-45; A. Acquier, V. Carbone, D. Massé, "How to Create Value(s) in the Sharing Economy: Business Models, Scalability, and Sustainability," *Technology Innovation Management Review*, Volume 9, Issue 2, February 2019, pp. 5-24.

10 Öko-Institut e.V., *op. cit.*, p. 11.

grapple conceptually what the rise of collaborative platforms means and discover how to address this practically, the following challenges posed by this novel phenomenon will have to be addressed: clarifying terminological chaos and inconsistencies when describing the collaborative economy, eliminating legal grey areas without curbing the innovative character of new business models, reconciling the conflicting interests of pubic authorities, stakeholders, and customers, investigating particular regulatory problems in specific areas of law (especially in labour law and tax law), balancing the needs of the technosphere and the natural environment, and unifying differentiated practices in various sectors and Member States. The current size and future development trends of the collaborative economy in Europe, as well as the present approach towards regulating the collaborative economy on a national and EU level, ought to be examined in order to develop the most optimal regulatory framework of the sector.

Taking the above-described efforts is necessary to address the main research question, which is: "How should the collaborative economy sector be regulated in the European Union from the standpoint of sustainable development?" A full and comprehensive answer to this question needs to indicate the type of regulation (lack of regulation, self-regulation, top-down regulation imposed by public authorities or collaborative regulation), the novelty of applicable regulation (expanding existing rules or creating new regulations), the timing of regulation (*ex ante* vs *ex post*), the scope of regulation (horizontal cross-cutting rules or sector-specific provisions, one-size-fits-all approach or rules based on certain level of frequency/profitability of performed activities), the authority to impose regulation (regional and national or EU legislator), and finally what type of legal instruments on the EU level (regulations, directives, decisions, or soft law), if any, should be adopted.

Research Hypotheses

This paper verifies the following research hypotheses. The optimal EU's model for regulation for the collaborative economy should be based on existing rules, which would be tailored to specific sectors and consist of an *ex post* framework (with the exception of situations in which people's lives and health are at stake). Instead of choosing top-down or bottom-up regulations, the EU legislator should balance collaborative regulation after consultation with representatives of the collaborative economy sector as well as national and local authorities. The most effective model for the collaborative economy should be centralised at the EU level and built on already developed solutions, which are effectively implemented in some Member States. In the Author's opinion, a directive is the most appropriate legal instrument to implement new provisions.

Methodology

With the objective to address the complex issues listed above, relevant analytical research methodology and appropriate research methods have been applied. Although these two terms seem similar, they refer to different things. Methodology is defined as "the research strategy as a whole," whereas methods describe "the range of techniques that are available to us to collect evidence about the social world."[11] The Author opted for qualitative over quantitative methodology, given its sensitivity to contextual factors, flexibility in applying variable research methods, and its holistic and interpretative approach.[12] In general, the qualitative doctrinal research methodology is better suited to the exploratory nature of this study.

This publication encompasses a doctrinal legal-dogmatic approach, as it examines various regulatory approaches to collaborative economy platforms that have been adopted by the European Union and its Member States, as well as by the United Kingdom after its withdrawal from the EU's structure. The methods applied in this research include black letter law analysis, international comparative research, cross-disciplinary analysis, case study, and literary criticism. Black-letter law analysis and international comparative research are applied to regulations provided by local, national, and EU legislators. The Author critically analyses 23 publications on the collaborative economy released between 2015-2021 by the European Commission, European Parliament, European Economic and Social Committee, and Eurostat, and European Parliamentary Research Service, as well as 11 reports issued by non-governmental organisations, independent researchers, and private companies. Selected case law from the United States District Court and the Court of Justice of the European Union is also discussed. Additionally, the case study method is applied to the two most popular collaborative platforms, i.e., Uber and Airbnb, which were frequently subjects of specific treatment and policies that were later applied to the whole sector.

The subject examined is multidisciplinary, as it refers to legal studies, international politics, macroeconomics, and ecology. It requires a complex and cross-disciplinary analysis. Therefore, the literature examined for this paper is quite rich, as it includes academic publications on collaborative economy (books, chapters in books, articles in journals, online publications), reports of nongovernmental organisations and private companies, as well as printed and online media news. All sources used are listed in the Bibliography.

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[11] M. Henn, M. Weinstein, N. Foard, *A Short Introduction to Social Research*, London 2006, p. 9.

[12] K. Kielmann, F. Cataldo, J. Seeley, *Introduction to Qualitative Research Methodology: A Training Manual*, United Kingdom 2012, p. 9.

Delimitation

Given that this paper is devoted to the issue of collaborative platforms in the European Union, the following elements are not covered entirely in this study.

First, this research focuses only on collaborative platforms, which can be simply described as on-demand platforms created to provide easy access for underutilised products and services; this term does not cover other types of digital platforms such as educational platforms (such as Coursera, edX, Quora), social media platforms (such as Facebook, Twitter, Linkedin), or media sharing platforms (such as Youtube, Vimeo, Spotify).

Second, although the Author recognises that the problem of regulating collaborative platforms also occurs in other parts of the world, the scope of the research has been limited to the EU's Member States and United Kingdom. Given that the UK had been included in all EU-oriented study papers until its withdrawal from the EU on 1 January 2021, the Author decided not to exclude this state from the analysis. Moreover, the UK makes an extremely interesting case study, because it has an opportunity to regulate the collaborative economy as it seems fit, without the obligation to follow the EU recommendations and policies.

Third, referenced opinions of EU institutions, as well as cases from the CJEU, have been selected purposely to highlight specific issues to the reader, and by no means are they representative of all EU documents or CJEU jurisdiction on the subject of the collaborative economy.

Last but not least, this study briefly discusses the most vital legal and economic challenges of the collaborative economy, with a detailed focus on issues related to sustainable development.

Structure

To make this study clearer for the readers, it is presented in the format of a dissertation and divided into five main chapters.

This introductory chapter clarifies the theoretical underpinnings of the study. By presenting an overview of the purpose and relevance of the study, this chapter provides an appropriate background for analysis in subsequent chapters. The introductory chapter also covers the delimitation of the investigated research problem and the main research questions and objectives, and the research methodology and methods are explained. The literature for the research is briefly presented and discussed.

The second chapter serves as an introduction to the concept of the collaborative economy. The major obstacles to a deeper understanding of collaborative economy are the confusions surrounding its definition and multiplicity of terms which are interchangeably used to describe this phenomenon. Thus, this chapter provides clarity by conducting an in-depth semantic analysis of terms and definitions used in the scientific literature and in EU publications. Additionally, in order to enable readers to grasp the concept of the collaborative economy fully, its key characteristics and main types of collaborative platforms are presented. This part also highlights the most striking regulatory problems and challenges of the collaborative economy in relation to labour law, tax law, competition law, antidiscrimination law, market access, and privacy law.

The third chapter provides an overview of the size and development of collaborative platforms in the EU. The United Kingdom is also taken into consideration, given that it had been included in all European analyses conducted before its withdrawal from the EU on 1 January 2021 and prior to that date the UK constituted one of the biggest collaborative economy markets in the EU. A case study and a comparative method are used to identify differences in national regulations and policies regarding the collaborative economy and to distinguish the most successful approaches in terms of their effectiveness and sustainability. In addition to examining national responses of Member States, a comparative, systemic, and functional legal analysis of EU's communications, policies, and recommendations on collaborative economy is conducted. This chapter also explains why the European Commission opted for soft law instruments and evaluates whether this approach has been effective toward collaborative platforms so far. The selected case law from the Court of Justice of the European Union is presented and discussed in this section.

The fourth chapter focuses primarily on the relationship between collaborative platforms and the Sustainable Development Goals which were adopted by the United Nations General Assembly in 2015 and incorporated by the EU into its internal and external policies. Not only does it portray the objectives and measures taken by the EU to green the digital economy, but it also provides an overarching picture of potential environmental risks and gains of collaborative platforms. Furthermore, this chapter provides a review of the environmental and socio-economic impact of the COVID-19 pandemic on the development of collaborative platforms. It also presents trends and scenarios for their future growth. Finally, this section addresses the most burning problems of regulating the collaborative economy in the EU and its Member States by providing practical recommendations and *de lege ferenda* proposals for the EU lawmaker.

The last part brings the study to a final conclusion. This section summarises the findings and observations from the previous chapters, as well as expresses *de lege ferenda* postulates to improve the current state of regulation of the collaborative economy sector in the EU in line with the Sustainable Development Goals. It also indicates areas for future research on the collaborative economy.

2. Collaborative Economy

2.1. Defining the Collaborative Economy

Due to the plurality and diversity of business models that fall within the collaborative economy and their constant evolution, providing a single, comprehensive definition of the collaborative economy is an extremely difficult task. On account of its normative dimension, the concept of collaborative economy has brought on endless discussions in regard to its empirical scope and impact on economy, society, and environment.[13] Therefore, no universally accepted definition currently exists, and terms such as "collaborative economy," "sharing economy," "digital economy," "gig economy," "peer economy," "platform economy," "circular economy," and "1099 economy"[14] are used interchangeably in both academic and media discourse. This is because their conceptual boundaries, as well as the scope of their activity, overlap and are unclear. However, it is important to note that these terms are not exact synonyms and their meaning is shaped by the ideological or academic leanings of the authors.[15] This only further contributes to the general confusion among researchers and the public alike about this complex phenomenon, which can be defined by multiple terms as described and interpreted in various ways. Presently, the most popular and recognisable terms are "sharing economy" and "collaborative economy," which are frequently used interchangeably. For the purpose of this research, the Author opted for the term "collaborative economy" for several reasons.

First, it is a truism to say that the term "collaborative economy" is understood to be broader than "sharing economy." Contrary to the latter term, the former unquestionably covers both commercial and non-commercial business models, as it does not necessarily assume facilitating the gratuitous exchange of goods and services by a platform. Hence, the term "collaborative economy" is less restrictive

[13] A. Acquier, V. Carbone, D. Massé, *op. cit.*, p. 6.

[14] The term "1099 economy" is particularly popular in the United States, where an entity or person other than employee have to fill out form 1099-MISCwhen they pay independent contractor.

[15] D. Murillo, H. Buckland, E. Val, "When the Sharing Economy Becomes Neoliberalism on Steroids: Unravelling the Controversies," *Technological Forecasting and Social Change*, Volume 125, 2017, pp. 66-76, cited in: A. Acquier, V. Carbone, D. Massé, *op. cit.*, p. 7.

and covers a wider range of business models. In fact, the most popular and most controversial platforms commonly referred to as part of the collaborative/sharing economy are Uber and Airbnb, which are nothing but market-oriented and capitalistic global corporations. Their business models are essentially based on profiting from facilitating contact between peers interested in exchanging goods or services. Hence, instead of "sharing" they rather operate on an "on demand" basis.[16] Given the current and potential global revenue of this sector of the economy, the term "sharing" is too inadequate to truly convey the market drive of many collaborative platforms.[17] Therefore, the term "sharing economy" could be underinclusive toward capitalistic, profit-oriented platforms that base their business models on meeting consumptive demands.

Second, the term "sharing economy" seems to carry more ideological value than "collaborative economy," as it evokes values such as altruism and solidarity.[18] It assumes the sharing of an underused resource, such as a space in a building or in a car. However, real-world practice reveals that in many cases such resources are not underused. Moreover, they often are created specifically in order to provide them to others. For instance, many Airbnb hosts opt to purchase or invest in building a new place specifically designated for Airbnb to increase future passive income, instead of sharing their own residency. Another example is Uber, which openly encourages its partner-drivers to purchase a car for Uber rides by financing their purchase. Given how little such commercial character business models have to do with genuine sharing, it would be somewhat misleading to refer to them as "sharing economy" platforms. Hence, collaborative economy seems to be a better, more ideology-neutral fit to define them.[19]

Last but not least, due to the above-mentioned reasons, the term "sharing economy" has faced noticeable criticism, and consequently many scholars and lawmakers have refrained from using it despite its initial popularity. The most important factor, from the perspective of this publication, is the fact that the European Commission and other EU institutions prefer to use the term "collaborative economy" in the overwhelming majority of their recent publications (especially after releasing the European Agenda for the collaborative economy[20] in 2016). Hence, it seems reasonable to stick to the same terminology in the process of developing the most optimal regulatory framework for the European Union and creating practical suggestions for improvement for the EU legislator.

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[16] M. Graham, M.A. Anwar, "Two Models for a Fairer Sharing Economy," in: N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*, p. 332.

[17] M. Bornman, J. Wessels, "The Tax Compliance Decision of the Individual in Business in the Sharing Economy," *eJournal of Tax Research*, Volume 16, Number 3, January 2019, p. 426.

[18] D. McKee, F. Makela, T. Scassa (eds), *op. cit.*, p. 3.

[19] V. Hatzopoulos, *op. cit.*, p. 5.

[20] European Commission, *Communication from the Commission…*, COM/2016/0356.

Other terms which could potentially be used to describe this phenomenon are much less commonly used than the two previously mentioned terms. Additionally, other terms seem to miss important characteristics of the collaborative economy. This usually leads to either too narrow or too broad a spectrum of platforms they refer to. For instance, "peer economy" seems to refer only to non-professionals, whereas many Uber partner drivers or Airbnb hosts work full time on the platform and it is their main source of income.[21] On the other hand, terms such as "digital economy" and "platform economy" cover all types of online platforms, including, for example, educational platforms such as Google and edX, and social media platforms such as Facebook, TikTok, and Instagram. The "green economy" and "circular economy" are primarily focused on the concept of sustainability, which, as this paper will demonstrate, is not always central to platform activity. The "gig economy" frames platforms' activity through the perspective of the workers and their labour rights rather than the goods or services that constitute the subject of the transaction. Given the above terminological diversity and complexity, opting for the most precise term should make this work more comprehensible.

Nevertheless, what is problematic is that the term "collaborative economy" is defined in various ways in literature and official publications. Proposed definitions range from extremely narrow to immensely broad. This mirrors the large diversity of business models which use digital technologies in various ways to match service and goods providers with customers directly whilst bypassing traditional middlemen.[22] One of the most cited definitions, provided by Frenken *et al.*, referred to consumers granting each other temporary access to under utilised physical assets *("idle capacity")*, possibly for money.[23] Maselli *et al.* expanded this definition by including a set of platforms where one can conduct an auction or a contest in order to receive a service, as well as the so-called "product-service economy," which covers a business-to-consumer relationship.[24] Botsman contrasted the collaborative economy with the sharing economy and the on-demand economy, and defined the first one as an "economy built on distributed networks of connected individuals and communities versus centralized institutions, transforming how we can produce, consume, finance, and learn."[25] She also pointed

[21] N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*, p. 2.

[22] R. Botsman, *Defining the Sharing Economy: What is Collaborative consumption-and What isn't?*, Fast Company, at <http://www.fastcoexist.com/3046119/defining-the-sharing-economy-what-is-collaborative-consumption-and-what-isnt>, 1 June 2022.

[23] K. Frenken (et al.), *Smarter Regulation for the Sharing Economy*, The Guardian, published on 20 May 2015, at <https://www.theguardian.com/science/political-science/2015/may/20/smarter-regulation-for-the-sharing-economy>, 1 June 2022.

[24] I. Maselli, K. Lenaerts, M. Beblavý, "Five Things We Need to Know about the On-Demand Economy," *Centre for European Policy Studies Essay*, No. 21, January 2016, p. 2.

[25] R. Botsman, *The Sharing Economy Lacks A Shared Definition*, Fast Company, at <https://www.fastcompany.com/3022028/the-sharing-economy-lacks-a-shared-definition>, 1 June 2022.

out its four key components, which are production, consumption, finance, and education.[26] Petropoulos provided an overview of all above definitions and came up with his own, which indicates that the key characteristic of the collaborative economy is that it provides an economic opportunity for individuals to trade their underutilised assets with other individuals through intermediaries that match supply and demand in an efficient way, and with the help of information technologies.[27] Even after this overview, numerous other studies presented their own unique understanding of the term "collaborative economy."

As part of work completed in the Digital Economy Research Programme, which conducts economic research on the issues of information society and the EU Digital Agenda, Codagnone and Martens published a report that draws on the systematic review of a large set of data sources, comprising 430 secondary sources, in order to critically assess the main differences between various definitions and interpretations of the term "collaborative economy" and its synonyms.[28] They concluded that thus far there are no unambiguous answers to some of the fundamental disputes and concerns about the essence of collaborative economy. They also suggested that the most optimal definition of collaborative platforms should focus on peer-to-peer activities given that most of the policy concerns lie there. The lack of a single, comprehensive definition is particularly bothersome in the context of the European Single Market, which comprises 27 Member States, each with their own domestic legislature and terminology. In order to avoid fragmentation of regulation across their borders, in its Agenda for the Collaborative Economy in 2016, the European Commission came up with the following definition for the collaborative economy:

> *the term "collaborative economy" refers to business models where activities are facilitated by collaborative platforms that create an open marketplace for the temporary usage of goods or services often provided by private individuals. The collaborative economy involves three categories of actors:*
>
> *(i) service providers who share assets, resources, time and/or skills – these can be private individuals offering services on an occasional basis ('peers') or service providers acting in their professional capacity ("professional services providers");*
>
> *(ii) users of these; and*
>
> *(iii) intermediaries that connect – via an online platform – providers with users and that facilitate transactions between them ('collaborative platforms'). Collaborative economy transactions generally do not involve a change of ownership and can be carried out for profit or not-for-profit.*[29]

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[26] *Ibidem*.

[27] G. Petropoulos, "An Economic Review of the Collaborative Economy," *Policy Contribution*, Number 5, March 2017, p. 3.

[28] C. Codagnone, B. Martens, *Scoping the Sharing Economy: Origins, Definitions, Impact and Regulatory Issues*, Institute for Prospective Technological Studies Digital Economy Working Paper 2016/01, JRC100369.

[29] European Commission, *Communication from the Commission...*, COM/2016/0356, p. 3.

For the objectives of this paper, this pragmatic and rather broad understanding of the term "collaborative economy" is adopted and applied in the publication.

2.2. Key Characteristics of Collaborative Platforms

Despite the lack of the universally accepted nomenclature on collaborative economy business models and a wide diversity of collaborative platforms, many researchers have attempted to discern the key characteristic traits that can be identified as common for the vast majority, if not all, of the collaborative economy platforms. After the critical review of the literature, the following five fundamental properties of collaborative platforms seem to be the most essential traits of this socio-economic phenomenon.

First, all collaborative platforms act as intermediaries between providers (who can be identified either as professionals or private individuals offering services on an occasional basis) and consumers (who are always peers). With the help of algorithms and data analysis, supply and demand are matched in the most efficient way by connecting spare capacity with orders and offering access-over-ownership. The main tasks of collaborative platforms include concluding contracts between parties, implementing algorithms to match parties, as well as handling intermediation, review, and control. In addition, some platforms enable payments between sides and secure transactions until the good or service is delivered. Numerous collaborative platforms earn profit from fees in the form of a percentage of the value of the transaction. In many cases, the supply of goods and services through other channels is subject to licensing and other regulatory barriers, and collaborative platforms are the only affordable alternative.[30]

Second, collaborative platforms are based on a shift from ownership to accessibility. In the 2000s and 2010s, humankind moved from gathering assets to collecting experiences, causing a decrease in the value of assets and an increase in the value of access to goods and services.[31] Instead of purchasing and owning things, consumers prefer to pay for the experience of temporarily accessing them. Therefore, sharing, exchanging, swapping, and gifting has begun slowly replacing buying goods and services which are not frequently used. Not only does it reduce costs on the consumer side, but it also enables goods and services providers to earn from their underused resources such as property, time, and skills. Moreover, it opens the market for a new group of consumers: those who gain temporarily access to luxury goods and services that normally would be unavailable to them. In many cases, the collaborative economy adds otherwise idle assets and resources

[30] G. Petropoulos, *op. cit.*, p. 3.
[31] V. Hatzopoulos, *op. cit.*, p. 13.

to the market and accelerates the circulation of resources in the market.[32] Hence, it contributes to moving from a consumption mindset towards a more sustainable mindset by a more effective and thorough use of resources. It is a step on the path to transition from a linear economy (based on the “take, make, and dispose” approach) to a circular economy (based on the “make, use, and recycle” concept).

Third, collaborative platforms are based on the concept of trust. Similar to any other business setting, either online or in person, trust is the key to a successful transaction. This is even more critical and immediate in the sector of the collaborative economy, which is still quite a novel and dynamically evolving phenomenon. Users need to believe that their service providers give them access to well-kept goods which they can benefit from in a safe and comfortable manner, whereas the service providers, such as hosts or drivers, have to feel comfortable sharing space in their house or cars with strangers met on the platform. Möhlmann and Geissinger convincingly argue that trust depends on collaborative platforms’ capacity to foster platform-intermediated confidence between users and service providers. This is achieved through the use of trust-enhancing digital cues, such as a dynamic feedback system and self-regulating mechanisms, which are embedded in the application.[33] Not only does it increase the trust of users before placing the order, but it also helps monitoring the providers, whose performance or goods are carefully reviewed by the users. Thanks to such policing mechanisms, harmful entities can be tracked and removed from the platform, leaving it a relatively safe and reliable digital space. Moreover, it also serves as a motivational function for providers, who are aware of the fact that they are evaluated and that their future connections depend on their average. In other words, they are fully aware that they need to maintain their trustworthy image in order to provide their services.

Fourth, collaborative platforms collect and process massive amounts of data about the market and their users. Due to the availability of a vast volume of data on consumer preferences and commercial behaviour, collaborative platforms are able to provide the most efficient and effective matching of customers with goods and services. Not only does this significantly improve user satisfaction, but it also enables platforms to reduce search and transaction costs. Essentially, the more data a platform possesses, the better at matching they become. This is one of the main reasons why platforms collect personal data such as the users’ age, gender, location, employment, habits, health issues, and preferences. Additionally, a large amount of personal data constitutes a perfect tool for targeted advertising. It also puts platforms at a competitive advantage, as it creates information

[32] O. Lobel, “Coase and the Platform Economy,” in: N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*, p. 69.

[33] M. Möhlmann, A. Geissinger, “Trust in the Sharing Economy: Platform-Mediated Peer Trust,” in: N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*, p. 28.

asymmetries towards both suppliers and final consumers.[34] The fact that such a massive amount of data is not available to either other market participants or the government, raises serious regulatory challenges and controversies which are discussed in detail in sections 2.4.4 (Market Access and Competition Law) and 2.4.5 (Private Law and Consumer Protection).

Finally, many collaborative platforms take advantage of the phenomenon which is known in the economic literature as the "network orchestrator model" or simply the "network effect." This occurs when the value of a good or service increases significantly as the number of its users grows.[35] The more users join a network, the more valuable the network becomes for service providers, and similarly, the more workers offer their services, the more options users gain.[36] For instance, the more partner drivers will join Uber, the more likely passengers will be to find an available vehicle nearby and get a ride. Similarly, the more users order a drive, the less time the drivers will have to wait to pick up new passengers. To put it simply, as the platform grows, its efficiency also grows. Hence, what makes companies such as Uber and Airbnb so powerful is the massive number of users engaging in one-time small-scale transactions settled on their platforms. The more choices peers have, the more they will be satisfied with the service and willing to use it again.

The key characteristics described above do not constitute a complete list, and other common traits of collaborative platforms could be further highlighted and discussed. However, the Author has selected the five characteristics above as the most fundamental in relation to the essence and effectiveness of collaborative platforms, as well as their link to the concept of sustainability. Other characteristic traits of collaborative economy platforms which are worth mentioning include deal customisation, smooth transaction process, engagement of users, reduced barriers to entry, established pricing policy, and the potential to achieve global scale.[37]

2.3. Types of Collaborative Platforms

The collaborative economy encompasses an immense array of various digital platforms that range from those based on gifting and swapping to lending and selling products and services. Collaborative platforms take different legal forms, business strategies, and objectives. They may also significantly differ in their ideological roots, values, business models, and technological resources. Some collab-

[34] V. Hatzopoulos, *op. cit.*, p. 12.

[35] C. Tucker, "Network Effects and Market Power: What Have We Learned in the Last Decade?," *Antitrust*, Spring 2018, p. 72.

[36] K. Zale, "Scale and the Sharing Economy," in: N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*, p. 41.

[37] O. Lobel, *op. cit.*, pp. 67-77.

orative platforms put social and environmental promises at the centre stage of their activity, whereas others are purely business-oriented and aim to maximise their profits. Between these two extremes, there are a multitude of various initiatives which attempt to integrate their socio-economic mission with generating profit. Furthermore, the collaborative economy covers multiple sectors with their own unique market characteristics. Thus, from a singular socio-economic phenomenon, the collaborative economy evolved into a multifaceted entity obfuscating categorisation.

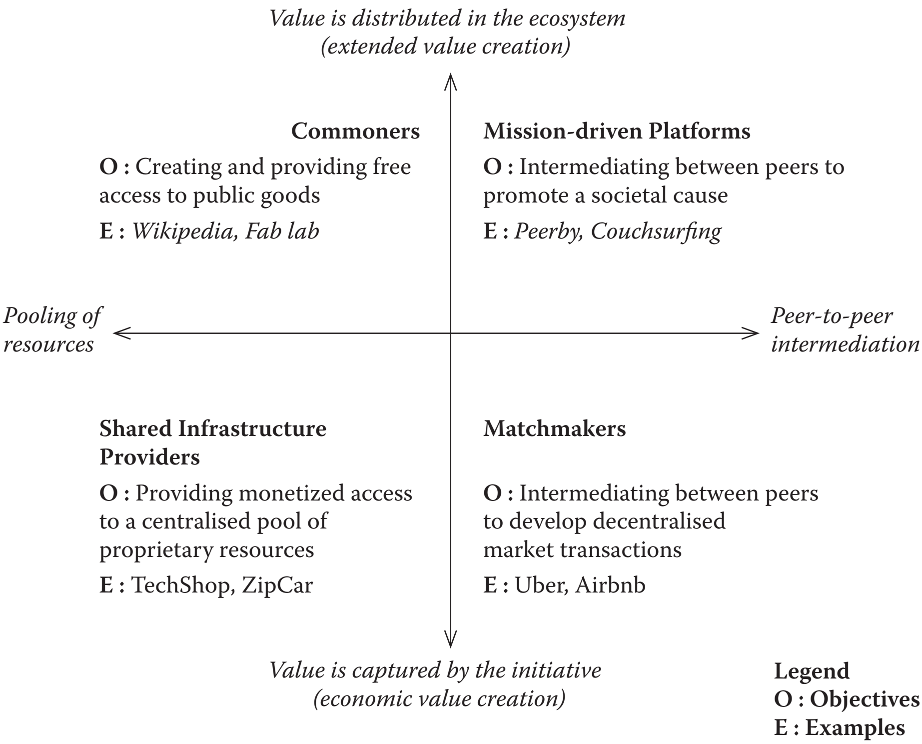
In order to explore various business models of collaborative platforms and evaluate their socio-economic impacts, multiple scholars have made attempts to group them into certain categories. From the standpoint of sustainability in the EU, which constitutes the main lens for this publication, the most recent and relevant classification is the one presented by Aurélien Acquier and Valentine Carbonare in 2018.[38] Their classification is based on field research conducted on a sample of 30 sharing initiatives in selected European countries that were examined along two dimensions: the value creation mechanism and the value distribution mechanism. These two dimensions were mapped in the form of horizontal and vertical axes, respectively, in order to distinguish four main types of collaborative platforms business models (see the figure below). These four types were named "Commoners," "Mission-Driven Platforms," "Shared Infrastructure Providers," and "Matchmakers."

"Commoners" are defined as digital platforms that create or provide free non-profit access to public goods, services, knowledge, and skills. Their non-profit activity follows their belief that knowledge should be treated as a common good, accessible to everyone who looks for it. Commoners are frequently developed and edited by their users, and many of them highlight environmental problems, climate change risks, and social injustice. They advocate for social equality and are supportive of environmental initiatives and sharing resources. Even though Commoners, as a rule, are not set on financial benefits from their operations and provide content for free on an open access basis, they are usually equipped with mechanisms for voluntary donations. These donations are used to develop the platforms or support charitable initiatives. The excellent examples of Commoners are Wikipedia, iFixit, and Fab Lab.

"Mission-driven Platforms" play the role of an intermediary between peers in order to promote a social cause. Similar to the Commoners, Mission-driven Platforms are based on values such as lending, exchanging, bartering, and gifting. Additionally, they attempt to transform society by criticising consumptive behaviours, favouring a better usage of resources and assets, and building up social activism. Many Mission-driven Platforms fight against negative sides of consumption and seek to reduce waste by recycling objects when they reach the end of

[38] A. Acquier, V. Carbone, *op. cit.*, pp. 51-64.

Figure 1: Four business model configurations of collaborative platforms



Source: A. Acquier, V. Carbone, *Sharing Economy and Social Innovation*, in: N.M. Davidson, M. Finck, J.J. Infranca (eds), *The Cambridge Handbook of the Law of the Sharing Economy*, Cambridge 2018, p. 55.

their life cycle. In addition to distributing value in the ecosystem, Mission-driven Platforms also create social links and increase solidarity between their members. Not only do they oppose mass production and corporatism, but they also put mutual respect at the centre stage and foster social ties among peers. With regards to monetization, Mission-driven Platforms span from non-profit organisations to joint stock companies with limited liability.[39] Peerby, Recupe.net, Co-recyclage and Couchsurfing are prime examples of Mission-driven Platforms.

"Shared Infrastructure Providers," such as ZipCar and TechShop, are profit-driven platforms which provide services and access to certain resources. By sharing resources, they give users access to the objects and space that they do not own, and, due to various reasons, they do not intend to acquire. Shared Infrastructure Providers monetize through membership fees or on a pay-per-use basis, and their social and environmental promises are rather peripheral than central.

[39] *Ibidem*, p. 56.

Their economic value is generated by a money-oriented approach, and they seek to maximize their profit through the networking effect. Besides saving and maximising the use of resources, Shared Infrastructure Providers also increase social and cultural activism in the region. Interestingly, some of the Shared Infrastructure Providers are supported by local and federal governments, which value their benefit to the community.

The last category consists of "Matchmakers" which are defined as intermediary, peer-to-peer online platforms that provide users with a wide selection of products and services. Matchmakers constitute the most diverse category, with platforms that significantly differ in terms of their size, legal form, state of development, and business policy. Due to their impact on traditional local market and their massive popularity in recent years, Matchmakers make the most noticeable and controversial companies operating in the sharing economy, especially in the transport and accommodation sectors. Prime examples of Matchmakers are Uber, Bolt, and BlaBlaCar in transport, and Airbnb and Vrbo in accommodation. Their business models are commonly known as novel, innovative, and cutthroat. Matchmakers often advertise themselves as cheaper, more friendly, and more ecological alternatives to traditional service providers. Contrary to their advertisements, they rarely put social and environmental objectives at centre stage, and are primarily focused on maximalising their own profits. In order to evade taxes and restrictive regulations, Matchmakers tend to deny their active participation in transactions and are supporters of a free-market ideology. They depict themselves as merely passive intermediary online marketplaces where interested peers are connected to perform transactions. This is, however, contested by many lawmakers and non-governmental organisations and still remains a subject of lively debates.

The above-described classification of four main types of business models sheds light on complex diversity of collaborative platforms and their heterogeneous approaches towards ecosystem they operate in. Generally, Commoners and Mission-driven Platforms are focused on distributing value in the ecosystem, while Shared Infrastructure Providers and Matchmakers are focus on maximizing profit. Both Commoners and Mission-driven Platforms are nonprofit companies that pursue a societal cause and have significant potential to benefit the environment. Not only do they provide free knowledge, skills, and services to anyone interested in them, but they also attempt to reduce waste by sharing resources and discouraging people from consumptive behaviours. Thus, from a sustainability perspective, it is highly important to support such initiatives and foster their growth, especially given their non-commercial character and hardships in raising funding externally. In contrast to these two types, Shared Infrastructure Providers and Matchmakers are primarily profit oriented, so benefitting the environment does not lie in the core of their undertaking. However, this does not mean that their activity does not impact the environment. They can have both a positive or negative effect, and hence, an assessment of their environmental impact has to be performed on a case by case basis. In addition, the potential of the collaborative economy to promote environmentally friendly activities can be enhanced through support from local and state authorities.

2.4. Regulatory Challenges of the Collaborative Economy

During the last two decades, collaborative platforms have spread, regardless of geographical boundaries, and have impacted markets and legislators at multiple scales of public authority.[40] The emergence of new business models has completely revolutionised several sectors of the market, particularly accommodation and transportation. From its inconspicuous beginning in 2007 as Air Bed and Breakfast, Airbnb has expanded to 4 million hosts who have welcomed more than 1 billion guest arrivals in almost every country across the globe.[41] The concept was based on the simple idea of offering three participants of an Industrial Design conference in San Francisco mattresses to sleep on and a meal when they woke up, during the time when almost all San Francisco hotels were booked out. A year later, in December 2008, entrepreneurs Travis Kalanick and Garrett Camp came up with the brilliant idea of an on-demand timeshare transport service,[42] which eventually turned into one of the most successful ride-sharing companies in the world. Uber currently prides itself on its 93 million active users and having technology available in more than 10,000 cities in over 70 countries.[43]

The rise of the collaborative economy has led to widespread "disruption" in many industries, as new business concepts challenge and sometimes surpass traditional ones. Currently, the largest collaborative platforms have become so powerful that their market capitalisations exceed their more traditional competitors. The media frequently reports on hotels and taxi companies striking and calling on local and federal governments for action. These calls are supported by complaints from non-governmental organisations, ecologists, and even the collaborative platforms users themselves. This is because, in many cases, collaborative platforms, by using new business models, tend to operate in an unregulated or not fully regulated market, which means that they are not legally obliged to obey existing antidiscrimination, labour, tax, and environmental regulations. This often results in low wages and legal uncertainty for the workers. Moreover, some collaborative platforms do not meet the requirements demanded from their competitors, such

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[40] N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*, p. 5.

[41] Airbnb, *About us*, at <https://news.airbnb.com/about-us/>, 1 June 2022; J. Ribbers, *The Airbnb Founder Story: From Selling Cereals To A $25B Company*, Get Paid Your Pad, at <https://getpaidforyourpad.com/blog/the-airbnb-founder-story/>, 1 June 2022.

[42] Uber, *The History of Uber – Uber's Timeline*, at <https://www.uber.com/en-GB/newsroom/history/>, 1 June 2022.

[43] Uber 2020 Annual Report, p. 8, at <https://s23.q4cdn.com/407969754/files/doc_financials/2021/ar/FINAL-Typeset-Annual-Report.pdf>, 1 June 2022.

as safety measures and licences. On the one hand, hiding under the umbrella term of sharing/collaborative economy helps them to grow their services without regulatory hinders, as well as reducing transaction costs, which contributes to providing users with affordable access to goods, services, and knowledge. On the other hand, it puts their competitors in imposition and infringes multiple rights and policies that have been established to protect consumers and the environment.

This situation creates serious regulatory challenges for legislators, who have to make sure that new regulations will not only fill the current regulatory shortages, but will also not put an end to the innovation of the collaborative economy. This is particularly difficult due to the fact that some features that make the collaborative economy so attractive are achieved thanks to the lack of limiting regulations. Therefore, legislators must balance the innovative business models and the protection of their consumers, employees, and competitors. The following subchapters give a glimpse into one of the most valid and controversial regulatory challenges existing in various law areas. Needless to state that they have rather illustrative character and by no means do they cover all the wide range of existing legal problems and challenges surrounding the collaborative economy.

2.4.1. Labour Law

As collaborative platforms continue to gather momentum, the number of people benefiting from using them to share their goods, skills or time is rapidly increasing. The rise of the collaborative economy has introduced a new type of non-standard employment, which could be described as the on-demand worker. Thanks to algorithms and flexible working policies, collaborative platforms match supply and demand for employment in real-time in the most effective manner. Although collaborative platforms generally provide people with the opportunity to earn money with little effort just by sharing their underutilised resources, there are a massive number of people who work long hours daily to receive low wages in inhuman working conditions. Balancing these extreme earning situations, and working out the most effective, fair, and universal employment framework for a wide spectrum of the activities performed through the collaborative platforms is undoubtedly a very difficult task.

Most collaborative platforms tend to emphasise their position as connecting platforms rather than as employers. Similarly, they overwhelmingly define people who share their resources through platforms as independent contractors instead of employees. This is because hiring workers as employees instead of independent contractors would raise costs by 20%-30%, according to several companies working in the collaborative economy.[44] By denying workers the title of

[44] J. Beebe, *How Should We Tax the Sharing Economy?*, Banker Institute Report, Number 10.24.18, p. 6, at <https://www.bakerinstitute.org/media/files/files/53fb91b2/bi-report-102418-cpf-sharingeconomytax.pdf>, 1 June 2022.

employee, platforms deprive them of standard employment protection and rights such as the right to minimum wage and limited working hours, collective bargging, family and medical leave, workers compensation, safe and healthy working environment, retirement savings plans, and unemployment insurance. This obviously puts them in worse positions than regular employees; however, contrary to what many claim, it does not necessarily mean that collaborative platforms always undermine labour standards.[45] In fact, many workers who now earn money by providing access to their resources on collaborative platforms worked previously in the black market, which means that they were deprived of any rights or earning security. In many professions, such as caregivers, nannies, and maids, people commonly work through word-of-mouth and receive their payment in cash, so from their perspective, the fact that they can be paid electronically through a platform is a substantial improvement. Thus, the evaluation of the standard which currently is and should be entitled to the workers is a complex issue.

In response to the public and authorities' confusion about the classification of workers as either employees or independent contractors, some scholars have proposed establishing a third category, which would be somewhere between these two. This, however, carriers a risk of further misconduct around the subject of workers and does not solve the problem of misclassification.[46] A study conducted by Miriam A. Cherry and Antonio Aloisi on third category legislation in Italy, Spain, Germany, and South Korea proved that it can lead to the creation of loopholes that result in less protection for the workers (Italy), as the category might be so strict that only few categories of workers will be covered by it (Spain and South Korea), and its required dependency threshold might be too high for employees to meet (Germany).[47]

Another problematic issue regarding labour is the fact that the workers are subject to data-based supervision and algorithms which evaluate their performance, and can, to some point, control their behaviour. Unlike the control held by the employers in more traditional business models, collaborative platforms have a more fragmented control of labour, which coexists with the autonomy of task workers and the user rating system.[48] For instance, Airbnb disallows hosts and guests to communicate outside their platform by tracking "@" and a sequence of numbers in the messages exchanged on the platform. Similarly, Uber makes it impossible to call the same driver, even though such an option is offered by traditional taxi companies. Another example is Lyft, which conducts the practice of

[45] B. Rogers, "Fissuring, Data-Driven Governance, and Platform Economy Labor Standards," in: N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*, p. 304.

[46] M.A. Cherry, A. Aloisi, "A Third Employment Category for On-Demand Work," in: N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*, p. 317.

[47] *Ibidem*, pp. 316-327.

[48] Q. Wu, Z. Li, "Labor Control and Task Autonomy under the Sharing Economy: A Mixed-Method Study of Drivers' Work," *The Journal of Chinese Sociology* 6, Number 14, 2019, p. 1.

sending email warnings to the drivers that have acceptance rates for ride requests below 75%.[49]

Perhaps the most controversial supervision is the one conducted by undisclosed software rules, which might be seen as oppressive by workers. In contrast to employer policies in the traditional workplace, collaborative platforms are not legally obliged to disclose their algorithms, which means that the workers might not know of the penalties or conditions used by the platforms. Moreover, many collaborative platforms are equipped with advanced user rating systems which give some amount of control over the workers behaviour to the customers whose rates might have a direct impact on positioning the worker in search results. In many cases, workers cannot appeal the received rating or provide their perspective on the situation. This not only puts workers at a disadvantage but also makes it more difficult to assess whether they should be treated as employees given that their performance is evaluated by the users instead of the platforms themselves.

To make matters worse, even if, under some of the existing rules, a number of platforms' workers could potentially qualify as employees, collaborative economy companies commonly attempt to avoid this classification by arbitration agreements containing class action waivers, which effectively nullify the threat of aggregate claims.[50] In response to these challenges, some scholars have suggested that the coverage of existing employment protections ought to be extended to all workers, regardless of their status as independent contractors or employees,[51] or simply that the legal definition of the employee should be broadened to cover any company that uses data to screen or monitor the worker's performance.[52] This, however, could result in an increase in the cost of transactions and discourage customers from using the platform. Limits in shifts and assigned work duration could also discourage the workers, who otherwise would enjoy autonomy and flexibility in scheduling their work time. Alternatively, instead of widening the scope of labour, the creation of a new social law designed to protect digital platforms workers, regardless of the classification of the character of their work, has been proposed.[53]

Besides the above-mentioned challenges and difficulties, the legislator should attempt to resolve the more general problem of tailoring labour law legislation in a way that will be adjustable to cover a wide scope of activity performed by collaborative platform workers. For instance, a person who shares their tools or rides a few times per year can be hardly considered an employee, whereas a person who

[49] E. Tippett, "Employee Classification in the United States," in: N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*, p. 298.

[50] *Ibidem*, p. 303.

[51] See, e.g., E. Tippett, *op. cit.*, pp. 291-303.

[52] See, e.g., B. Rogers, *op. cit.*, p. 315.

[53] M-C. Escande-Varniol, "The Legal Framework for Digital Platform Work: The French Experience," in: D. McKee, F. Makela, T. Scassa (eds), *op. cit.*, p. 334.

receives their main income from hosting guests in their house or offering daily rides seems to require at least basic employment protection. Hence, the diversity of the engagement of the workers has to be taken into consideration in creating tailored and balanced regulations which will prevent the present cases of exploitation and degradation of human dignity at work.

2.4.2. Tax Law

The rapid development of the collaborative economy has brought about new types of activities and transactions that can potentially be taxed. However, due to the diversity of different forms of business activity, it is almost impossible to keep up with all the types and introduce universal tax policy. Finding the right legal framework which, on the one hand, will lead to keeping a fair and balanced tax system for all economic activities performed in the market, and on the other hand, will not limit the socio-economic potential of the collaborative economy sectors is an extremely difficult task. This is even more cumbersome due to the reluctant approach of collaborative platforms.

Generally, collaborative platforms do their best to avoid tax responsibility and largely tend to leave to their users whether and by what method they pay taxes on the earnings gained by their intermediation.[54] In many countries, the complexity of the tax regulations and the obfuscation of whether the income earned on the platform should be reported results in a massive number of improperly reported or under-reported taxable incomes. Given the size and resources of many corporations operating in the collaborative economy, there are no doubts that the burden of figuring out the tax obligation should be placed on companies rather than on private individuals, especially considering that most workers in the collaborative economy have limited or no experience in tax rules.[55]

So far, collaborative platforms have shown little interest in contributing to government revenue, with the exception of the situations in which it was maliciously used to negotiate the right to operate in a jurisdiction.[56] Therefore, it seems that governments are rightly worried about diminishing tax revenue and attempt to introduce the adequate tax regulations. Needless to say, the collaborative economy has great potential to expand the tax base with more resources in the economy. However, it has been proven that some tax policy practices have a detrimental effect on the development of the collaborative economy. For instance, high taxes imposed on gains obtained through the establishment of col-

[54] B. Cannon, H. Chung, "A Framework for Designing Co-Regulation Models Well-Adapted to Technology-Facilitated Sharing Economies," *Santa Clara High Technology Law Journal*, Volume 31, Number 1, January 2014, p. 53.

[55] B. Bozdoganoglu, "Tax Issues Arise from a New Economic Model: Sharing Economy," *International Journal of Business and Social Science*, Volume 8, Number 8, August 2017, p. 126.

[56] B. Cannon, H. Chung, *op. cit.*, p. 65.

laborative platforms lead to fewer platforms being established and consequently to reducing competition among platforms.[57]

Similar to labour law, regulation based on a one-size-fits-all approach cannot be successfully applied to tax law, as there is a fundamental need for making a distinction between those who provide access to their resources occasionally and those who professionally provide services through the platforms. This problem can be potentially overcome by setting certain limits on revenue or activity frequency to determine who should pay taxes. Given that a substantial number of workers of the collaborative economy sector are breadwinners in their households, struggle to make ends meet, and their activity is the main source of income, it would be worth considering providing them with tax relief or, at least, a substantial tax reduction. Therefore, the adoption of well-thought out and detailed tax regulations is the most optimal solution.

In order to help the legislator with the above-described and other existing tax challenges as well with the general problem of effective tax enforcement, many scholars suggest delegating some of the financial responsibilities from public authorities to collaborative platforms.[58] This is because the latter have more valid data and better technological resources to effectively collect taxes with respect to the workers' activity. Such self-regulation mechanisms might be more time and money efficient; however, they require a close cooperation between tax authorities and collaborative platforms.

Another interesting idea that could help to overcome tax-legislated uncertainty and revenue of loss is investing in taxpayers tax education.[59] This can be achieved by launching online webpages addressed to the workers of the digital sector. For instance, the American Internal Revenue Service has launched an online Gig Economy Tax Center,[60] which contains a number of useful resources for the workers of digital applications and websites in eight languages. The public authorities should provide an easy access to a clear set of tax rules in order to ensure that they are accurately reported and collected.

Even if the public authorities succeed in establishing fair tax regulations and ensuring that tax-collecting mechanisms are effective and comprehensible to everyone, they still have to face another serious challenge, which is broadly understood as tax avoidance. This might be particularly problematic in federal countries and within the European Union, because platforms might opt for transferring their income to states with more preferable tax systems in order to maximise their profits. One of the most controversial examples of such practice is Uber, which

[57] B. Bozdoganoglu, *op. cit.*, p. 126.

[58] See, e.g., *ibidem*, p. 134.

[59] S-Y. Oei, D.M. Ring, "Tax Issues: Implication for Workers," in: N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*, p. 336.

[60] See, Gig Economy Tax Center, at <https://www.irs.gov/businesses/gig-economy-tax-center>, 1 June 2022.

has been reported by the Center for International Corporate Tax Accountability and Research to use a complex tax shelter involving roughly 50 Dutch shell companies to shelter it from paying billions in tax across its worldwide operations.[61] Even this one example alone clearly demonstrates that the problem of imposing tax on successful global companies should be immediately addressed not only on domestic level but also at an international one.

2.4.3. Antidiscrimination Law

The dilemma of whether antidiscrimination rules should be applied in the case of collaborative platforms arises from their own identity crises.[62] Despite the fact that they tend to present themselves to the public and in the courtrooms as just mere intermediaries, their advertising, interfaces, community building mechanisms, and active participation in transactions between the customers and service providers seem to indicate a much greater role. The question is whether this role is pivotal enough to expect that these companies will ensure that everyone using their platforms is treated with proper respect, regardless of their nationality, race, sex, sexual orientation, belief/religion or physical ability. The fact that collaborative economy platforms are based on trust and dominate several key sectors of the market, such as transport and accommodation, makes this issue even more salient.

For instance, in *National Federation of the Blind of California v. In the Uber Technologies* case in the United States, the plaintiffs argued that Uber discriminates against blind passengers, which violates the federal Americans with Disabilities Act and California's Unruh Act.[63] Another example constitutes prospective Airbnb guests with African-American sounding names who are 16% less likely to secure their accommodation compared to users with white sounding names.[64] The problem of discrimination is not limited only to the customers of collaborative platforms, but it also affects those who want to benefit from sharing their resources. For instance, many women struggle to join the collaborative economy because they would not be provided maternity leave. Race and nationality, which can sometimes be deducted from names and photographs of the service providers, can constitute obstacles in gaining customers who might have some racial or nationality bias. The research carried out on Uber and Lyft drivers revealed that drivers

[61] Centre for International Corporate Tax Accountability and Research, *A Preliminary Internal Report for FNV*, March 2021, at <https://cictar.org/taken-for-a-ride/>, 1 June 2022.

[62] Ch. Garden, N. Leong, "The Platform Identity Crisis. Responsibility, Discrimination, and a Functional Approach to Intermediaries," in: N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*, p. 450.

[63] United States District Court, *National Federation of Blind of California v. Uber Technologies*, 26 January 2015, No. 3:14-cv-4086 NC.

[64] B.G. Edelman, M. Luca, D. Svirsky, "Racial Discrimination in the Sharing Economy: Evidence from a Field Experiment", *American Economic Journal: Applied Economics*,Volume 9, Number 2, April 2017, p. 1.

with African-American sounding names are up to three times more likely to be cancelled compared to their colleagues with White American sounding names.[65] Likewise, a study conducted on Airbnb revealed that that non-black hosts charge approximately 12% more than black hosts for the equivalent rental.[66]

Numerous examples of discrimination treatment in collaborative economy have been reported in the media in the past few years. Consequently, even though collaborative economy platforms deny that they need to obey any antidiscrimination laws, they are still pressured by users and commentators to address these problems. However, platforms might have little incentive to fight discrimination if it results in spending considerable financial resources or weakening the trust or notion of safety of their more biased users. If platforms remain unsuccessful in introducing meaningful and effective self-regulation of discrimination, then the legislator will be urged to step in and implement adequate reforms to ensure that everyone is treated with respect regardless of their race, ethnic origins, sex, religion/belief, sexual orientation, or physical ability. This is a particularly important issue in the European Union whose interknit market is based on equality and non-discrimination principles.[67]

2.4.4. Market Access and Competition Law

Although the influx of collaborative platforms has a desirable complementary effect in some sectors of the market, in others it poses a serious threat to the existence of more traditional business models which are burdened by tax and employment rules. Fear of new powerful business policies and potential market power abuse has begun to manifest, especially in the accommodation and transport sectors, due to the overwhelming success of Airbnb and Uber, which, respectively, have slowly begun pushing short-term rentals and taxis off the market. In response, their market competitors started protesting and advocating for introducing adequate regulations to collaborative economy sector. They argue that by not being obliged to pay taxes, apply for licences (Uber), or fulfil safety requirements (Airbnb), collaborative platforms have unfair advantages, which enables them to provide services at lower prices and strengthen their position on the market.

The common lack of applicable employment and tax regulations towards collaborative platforms grants them significant advantage over their competitors who have to adjust their economic activity to the existing legal rules. Although the emergence of collaborative platforms initially greatly benefited consumers by providing a much wider variety of choices in reasonable prices and by revived

[65] Y. Ge (et al.), *Racial and Gender Discrimination in Transportation Network Companies*, National Bureau of Economic Research, Working Paper 22776, October 2016, p. 24.

[66] B.G. Edelman, M. Luca, *op. cit.*, p. 1.

[67] N. Countouris, L. Ratti, "The Sharing Economy and EU Anti-discrimination Law," in: N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*, p. 492.

competition in some long-standing and uncontested markets (such as the taxi industry), their continually unregulated or poorly regulated activity has cast multiple doubts on the issue of the fair competition.[68] These doubts include, among other things, the disruptive nature of the profit-driven corporations on the local markets, the questionable role of the platforms, the risk of dominance and monopolisation on the market, the powerful networking effects, as well as the possession of big data, use of algorithms, and information asymmetry.

Even though the above-mentioned problems raise a number of questions in competition law, some scholars claim that this is not specific to the sharing economy as a phenomenon itself, and legislator intervention from the standpoint of competition law is not critically needed.[69] This is a consequence of the belief that the vast majority of problems can be better solved by framing them from the perspective of other areas of law (especially labour law and tax law),[70] or their own self-regulation.[71] For example, the risk of establishing a dominant position and monopolisation of the market is foreseen to be mitigated by multi-homing, which is understood as interchangeably using multiple applications by customers and service providers. This happens in countries where customers can decide whether they want to catch a ride through Uber or Bolt, and where many taxi drivers offer their services on both of these applications simultaneously. And as the collaborative economy expands and the competition between the platforms becomes fiercer, the risk of a natural monopoly of one of them is reduced.

However, the already dominant platforms can potentially make attempts to artificially reduce multi-homing by increasing the costs of switching to other competing platforms. Hence, in such extreme cases, the self-regulations might turn out to be insufficient to provide an effective level of protection and the intervention from the standpoint of competition law might still be necessary. In fact, as Niamh Dunne rightly noted, the issue of unfair competition in the collaborative economy "represents one of the (many) acknowledged limits of antitrust; though this recognition in no way denies the possibility that more obviously *anti*competitive behaviour might also occur here."[72] In that case, the legislator has to face a dilemma of introducing fair and equal measures for all the subjects of the same market, which at the same time will not diminish the main advantages of the collaborative economy, i.e., flexibility, low barriers of entry to the market, and low costs.

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68 V. Hatzopoulos, *op. cit.*, p. 120.

69 F. Ducci, "Competition Law and Policy Issues in the Sharing Economy," in: D. McKee, F. Makela, T. Scassa (eds), *op. cit.*, pp. 295-319.

70 *Ibidem*, p. 297.

71 See, e.g., M. Fajar, "Fair Competition: The Concept of Regulation in the Sharing Economy," *Journal of Asian Finance, Economics and Business*, Volume 7, Number 11, October 2020, pp. 637-645.

72 N. Dunne, "Competition Law (and Its Limits) in the Sharing Economy," in: N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*, p. 107.

2.4.5. Private Law and Consumer Protection

The collaborative economy sector is characterised by low barriers of entry and exit, which results in a great number of nonprofessional individuals offering their services through the platform. The success of collaborative platforms lies in establishing the most efficient way to connect consumers and service providers through their online platforms. On many occasions, the business models adopted by platforms are called into question in terms of consumer protection and privacy. Companies avoid being held responsible for any harm experienced by consumers and explain that they are just mere intermediaries which connect consumers and service providers. However, this explanation is second-guessed as the matching process and verification mechanisms are controlled entirely by platforms. Moreover, companies are reluctant to disclose their inner working mechanisms. In fact, platforms are frequently accused of sharing only selected portions of the information they possess. They are called on to release more information on how specific factors are weighted by the algorithms, and consequently, what user behaviours can affect their profit.[73]

Data collection and access to the information constitute another major issue in the collaborative economy, especially given that platforms usually claim to have an exclusive ownership of user reviews and other relevant information, which go far beyond what is required to obtain in order to merely intermediate.[74] The big data collected by platforms plays a key role in the success of their business models, because the more information they have regarding their consumers and suppliers, the more efficiently they can match demand and supply. Data collection and analysis is also critical to facilitate a reliable feedback system, which builds trust between consumers and service providers. Therefore, many contemporary platforms require users to share a range of information about themselves, including their personal data, such as name, age, sex, and address. Besides this, collaborative platforms collect huge quantities of data on their consumers' preferences, habits, geolocations, employment, and health situations. Some of the collected data is necessary for connecting consumers and suppliers in a cost-effective manner, whereas others are used purely for advertising and marketing reasons. The fact that collaborative platforms exploit an enormous amount of data, including personal data, raises serious concerns about data privacy, data transparency, and cyber security.

The ability of collaborative platforms to collect and leverage user data increases the need for effective consumer protection law to prevent unfair practices such as rating and price manipulations. By processing so much data and controlling the entire matching system, collaborative platforms have significant power over cus-

[73] G. Smorto, "The Protection of the Weaker Parties in the Platform Economy," in: N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*, p. 434.

[74] *Ibidem*, p. 442.

tomers and service providers. This is also demonstrated by the fact that the terms of service are imposed in such a way that users of the platforms can either accept in all or leave the platform, there is simply no room for users to select which data is collected about them. This creates the danger of an imbalance in bargaining power, and contributes to information asymmetry. Therefore, it is vitally important to ensure that companies do not take advantage of collected information in unfair or deceptive ways.

2.5. Summary

Over the last two decades, the collaborative economy has grown significantly, moving collaborative platforms from niche to mainstream. From a simple idea based on sharing underused utilities, the collaborative economy developed into a complex socio-economic phenomenon which takes form in a large array of business models. Although no agreement has been reached so far on using one consistent term or definition to describe this complicated phenomenon, there are some noticeable characteristics that are common for various collaborative platforms. They include, among other things, moving from the concept of ownership towards providing temporarily access, serving as intermediaries between the customers and service providers, facilitating transactions based on trust, and applying algorithms to an enormous quantity of collected data to maximize efficiency. Pricing and network effects frequently drive the volume of transactions on platforms, which enable them to experience an explosive growth.

Today's collaborative platforms vary in size, legal forms of business organisations, and value creation policies. The wide range of extremely diverse entrepreneurial initiatives differs significantly in degrees of ideological values and commercialisation. Collaborative economy platforms range from local initiatives genuinely dedicated to altruistic goals such as raising awareness of limited natural resources and sharing underutilised assets, to global profit-driven corporations which need to satisfy investor and shareholder interests. Therefore, the collaborative economy can be seen at the same time as both a phenomenon with a massive potential to increase resource efficiency, reduce environmental burdens, and build social ties in local society, and as a disruptive and predatory business model scheme which profits by dodging the law under cover of environmental and innovation promises. Due to its diversity and complexity, regulation of the collaborative economy is necessarily nuanced and requires more intricacy than found in traditional regulatory approaches.

As the collaborative economy has surged, regulatory uncertainty in various areas and sectors has risen significantly. In particular, traditional accommodation and taxi industries are strongly opposed to new forms of accommodation and car sharing services, which clearly benefit from the lack of strict regulations. The numerous valid concerns have been expressed in relation to tax law and employment law, and they have been quickly followed by new problems raised in privacy law, consumer protection, antidiscrimination law, competition law, and many other fields. The rapid growth of the collaborative economy has noticeably outpaced the law's ability to address numerous problems that quickly emerged in this novel sector.[75] A one-size-fits-all approach cannot be a sufficient to regulate this complex sector, as legislation should reflect its inherent diverse attributes. Therefore, the current size and development stage of the collaborative economy in the European Union, as well as its positive and negative implications and potential environmental gains and risks, have to be thoroughly analysed in order to develop the most optimal hypothetical legal framework model that will ensure that collaborative platforms operate in the European Union in the most sustainable, inclusive, and effective manner.

[75] J. Jefferson-Jones, "Discrimination and Short-Terms Rentals", in: N.M. Davidson, M. Finck, J.J. Infranca (eds), *op. cit.*, p. 483.

3. Collaborative Platforms in the European Union and United Kingdom

3.1. The Size and Development of Collaborative Platforms in the EU

The idea of addressing the issue of the collaborative economy in the European Union was first expressed in the Single Market Strategy adopted by the European Commission in October 2015.[76] In this document, the European Commission announced that it would "develop a European agenda for the collaborative economy, including guidance on how existing EU law applies to collaborative economy business models" and "assess possible regulatory gaps and monitor the development of the collaborative economy."[77] To develop such an agenda, the European Commission needed to examine the state of collaborative platforms in Europe. This task was delegated to Robert Vaughan and Raphael Daverio, who released a report entitled *Assessing the Size and Presence of the Collaborative Economy in Europe* in April 2016.[78] They estimated that five key sectors of the collaborative economy, including P2P accommodation, P2P transportation, on-demand household services, on-demand professional services, and collaborative finance, generated revenues of nearly € 4 billion and facilitated € 28 billion of transactions within Europe in 2015.[79] They also visually depicted the impressive expansion of the collaborative economy sector in comparison with the revenues and transaction values reported in previous two years.

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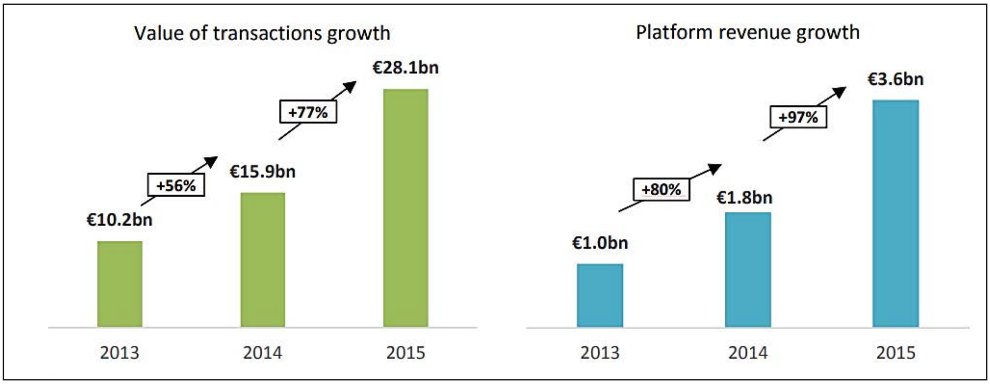
[76] European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Upgrading the Single Market: more opportunities for people and business*, (COM (2015) 550 final), Brussels, 28 October 2015.

[77] *Ibidem*, p. 4.

[78] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, R. Vaughan, R. Daverio, *Assessing The Size and Presence of the Collaborative Economy in Europe*, Publications Office, 2017.

[79] *Ibidem*, p. 7.

Figure 2: Illustration of the expanding growth of the collaborative economy in 2013-15



Source: European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, R. Vaughan, R. Daverio, *Assessing the Size and Presence of the Collaborative Economy in Europe*, Publications Office, 2017, p. 14.

Overall, more than 275 collaborative economy platforms were estimated to have been founded in Europe before 2015 across nine major EU Member States, including: France, Germany, the UK, Spain, the Netherlands, Sweden, Italy, Poland, and Belgium.[80] The volume of European collaborative platforms with respect to the country of their origin is presented in the following graph on the next page.

In 2015, the participation of European citizens as users and providers in the collaborative economy sector was assessed as relatively small but steadily growing. This assessment was based on the international study of almost 15,000 consumers in 15 countries which stated, among other things, that:

- one third of European consumers have heard of the collaborative economy;
- around 5% of European consumers have participated in the collaborative economy;
- the leading countries in terms of their collaborative economy market were Turkey, United Kingdom, and Spain;
- participation in collaborative economy was highest among younger generations (under 35) and well educated.[81]

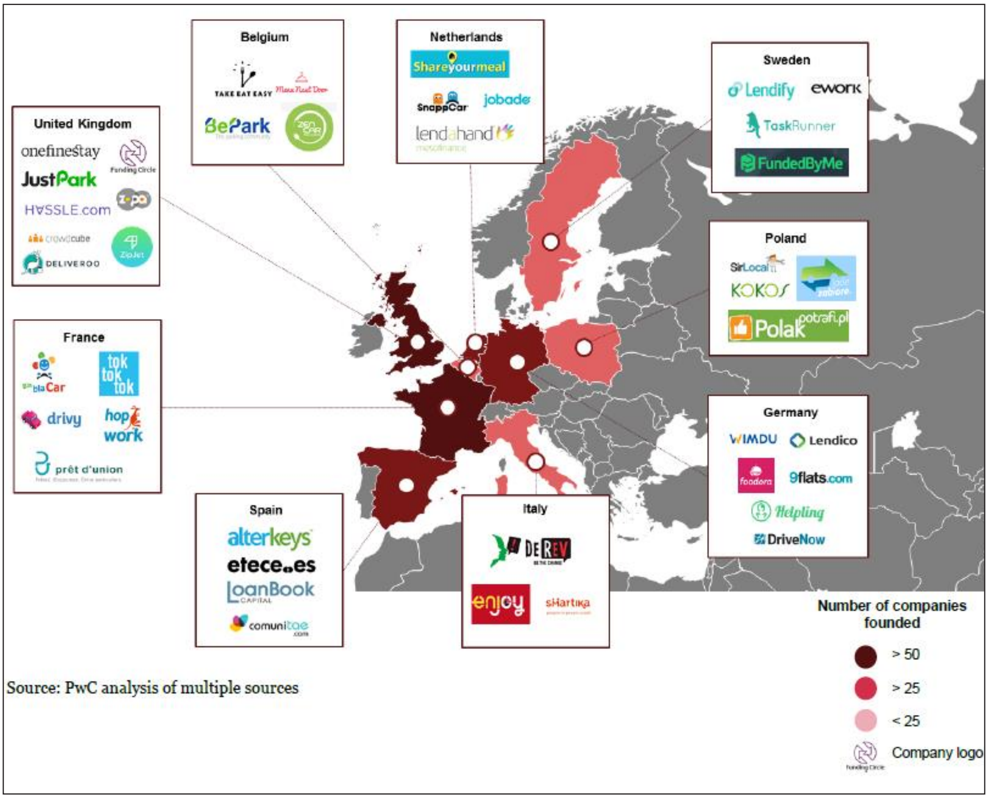
The most popular reasons reported for participating in the collaborative economy were opportunities to save money and make extra profits from the underutilised resources.[82] The other motivations mentioned were the beneficial effects of

[80] *Ibidem*, p. 7.

[81] ING International, *The European Sharing Economy Set to grow by a Third in the Next 12 Months*, Amsterdam, 1 July 2015, at <http://www.ing.com/Newsroom/All-news/European-sharing-economy-to-grow-by-a-third-in-the-next-12-months.htm>, 1 June 2022.

[82] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, R. Vaughan, R. Daverio, *op. cit.*, p. 18.

Figure 3: Volume of European collaborative platforms with respect to the country of their origin



Source: European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, R. Vaughan, R. Daverio, *Assessing the Size and Presence of the Collaborative Economy in Europe*, Publications Office, 2017, p. 15.

participating in the collaborative economy on the environment and on building the community.[83] The report concluded by acknowledging that even though collaborative platforms widen the scope of choice for European consumers and an opportunity for European economies to foster sustainable growth, it is necessary to develop a framework to balance the needs of consumers with regional priorities for competitiveness, innovation, and growth.[84]

In a study conducted by the Cologne Institute for Economic Research at the request of the European Commission, the researchers compared the trajectory of growth of US-based and EU-based collaborative platforms and noticed that European platforms face barriers to growth which arose due to characteristics

[83] *Ibidem*.

[84] *Ibidem*, p. 31.

of the EU environment.[85] In contrast to the more unified American market, the EU market, with its 28 Member States, is considerably more heterogeneous.[86] This brings on significant regulatory challenges (policy fragmentation and highly diverse legislation within the EU, especially regarding the market entry and conditions on operating in various Member States), financial challenges (higher costs of business expansion), and cultural challenges (24 official languages in the EU, different customer habits in various Member States).[87] The EU legislator was advised that these challenges must be overcome in order to enable EU-based collaborative platforms to grow and develop. Subsequently, in June 2016, the European Commission adopted "A European Agenda for the Collaborative Economy"[88] (hereinafter: the Agenda), in which it introduced a broad legal definition of the collaborative economy and general guidelines for Member States on how existing European Union law should be applied to the collaborative economy in five critical legal areas: market access requirements, liability of online platforms, consumer protection, employment, and taxation. In addition, the Agenda identified market and regulatory challenges and confirmed that the European Commission was eager to work with Member States and relevant authorities to address them. The Agenda stipulated that new opportunities for consumers and entrepreneurs can "make an important contribution to jobs and growth in the European Union if encouraged and developed in a responsible manner."[89]

It is worth pointing out that, at that time, the European Commission had refrained from using hard law such as resolutions or directives to address the issue of collaborative economy, and instead opted for applying soft law in the form nonbinding agenda. This enabled collaborative platforms to thrive with minimal legislator intervention, and consequently, more than 650 EU-based collaborative economy platforms were reported to operate in 2017.[90] However, only 51 of them (which at that time constituted less than 1% of all collaborative platforms in the scope) were operating in more than one Member State.[91]

In 2018, the European Commission released the *Study to Monitor the Economic Development of the Collaborative Economy at Sector Level in the 28 EU*

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[85] V. Demary, B. Engels, "Collaborative Business Models and Efficiency. Potential Efficiency Gains in the European Union," in: *Cologne Institute for Economic Research*, Impulse Paper No. 07 & European Commission Ref. Ares, 2558548, October 2017, p. 20.

[86] *Ibidem*, p. 23.

[87] *Ibidem*, pp. 25-27.

[88] European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A European Agenda for the Collaborative Economy*, COM/2016/0356, Brussels 2016.

[89] *Ibidem*, p. 2.

[90] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, M. Nunu (et al.), *Study to Monitor the Economic Development of the Collaborative Economy at Sector Level in the 28 EU Member States: Final Report*, Publications Office, 2018, p. 30.

[91] *Ibidem*, p. 161.

Member States which estimated that the revenue of the collaborative economy reached € 26.5 billion in 2016, and about 394 000 people worked within this sector in the EU. At that time, four Member States, namely France, the United Kingdom, Poland and Spain, had the largest collaborative economy markets (6.6 billion euro, 4.6 billion euro, 2.7 billion euro, and 2.5 billion euro, respectively) and offered the most jobs in the collaborative economy sectors (74 600, 69 400, 65 400 and 39 700 reported workers, respectively).[92] The study confirmed that the level of development of the collaborative economy varied significantly within the EU. Estonia reached the highest share of collaborative economy in national GDP (0.88%), followed by Poland (0.64%), Latvia (0.63%), Luxembourg (0.44%), Czech Republic (0.44%), and Sweden (0.29%).[93] The lowest presence of the collaborative economy in the national economy was reported in Romania (0.05%), Slovenia (0.04%) and Belgium (0.04%).[94] The average share of the collaborative economy in the entire economy of the EU was 0.2%.[95] This means that, at the time of the research, the collaborative economy was still in its emerging stage in the EU and its significant market potential remained untapped.[96] The authors noticed that national policy measures can have a significant impact on the development of the collaborative economy, given that the Member States with favourable and adaptive business environment are often above average in terms of collaborative economy developments.[97] Therefore, both the European Commission and the Member States were called to work together to eliminate the unnecessary market barriers and develop balanced regulations.

Fulfilling its commitments from the Agenda, the European Commission ordered organising a survey to identify EU citizens' perceptions, attitudes, and practices in relation to the collaborative economy. The Eurobarometer survey was carried out in April 2018 and involved 26 544 respondents from all Member States. The key findings of the survey are as follows:

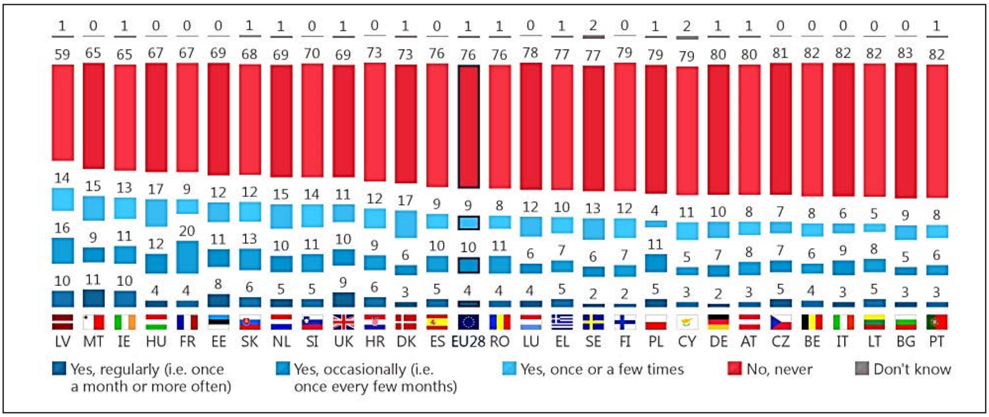
- just under a quarter of respondents (23%) had used services offered via collaborative platforms, but only 4% used such services on a regular basis, i.e., at least once per month;
- among those who have used services offered via collaborative platforms, the vast majority (88%) would recommend those services and only 7% would not recommend them;
- only 6% of respondents had offered services through collaborative platforms, with 3% having offered them a few times or less, 2% offering them occasionally, and only 1% offering them on a regular basis;

[92] *Ibidem*, p. 9.
[93] *Ibidem*, p. 13.
[94] *Ibidem*.
[95] *Ibidem*.
[96] *Ibidem*, p. 161.
[97] *Ibidem*.

– transport (44%) and accommodation (35%) were the sectors most frequently mentioned by those who had offered services through collaborative platforms;
– 19% of those who had not provided services through collaborative platforms would consider doing so;
– the most frequently mentioned advantage of collaborative platforms was a convenient access to services, whereas the main disadvantage was the lack of clarity about who is responsible when issues arose.[98]

A noticeable increase (23% from 17%) in the proportion of those who used services offered via collaborative platforms was observed in comparison to a similar Eurobarometer survey conducted prior to the release of the Agenda in 2016.[99] The age bracket of respondents who were the most likely to use services offered via collaborative platforms remained 15-24. Similarly, the demographics of respondents most likely to use services offered via collaborative platforms continued to include living in big cities, being self-employed, and having higher education.[100] However, a significant difference between Member States was detected in 2018, ranging from 17% in Portugal to 40% in Latvia. A wide scope of the answers in all Member States is illustrated in the below graph:

Figure 4: Percentage of the citizens who have used services offered through a collaborative platform in Member States



Source: European Commission, *Flash Eurobarometer 467 (The Use of the Collaborative Economy)*, October 2018, p. 8.

[98] European Commission, *Flash Eurobarometer 467 (The Use of the Collaborative Economy)*, October 2018, pp. 4-6.

[99] European Commission, *Flash Eurobarometer 438 (The Use of Collaborative Platforms)*, June 2016, at <https://europa.eu/eurobarometer/surveys/detail/2112>, 1 June 2022.

[100] European Commission, *Flash Eurobarometer 467…*, p. 10.

Despite the fact that the Commission announced in the Agenda that it will continuously review the development of collaborative platforms in the European Union, no further substantial EU studies have been published to date since those of 2018. The reason for this could be the unprecedent pandemic, which has had a significant impact on the global economy, and the collaborative economy sector is no exception.

3.2. Diverse Regulatory Frameworks towards Collaborative Platforms in Member States

Since the emergence of collaborative platforms in Europe, there has been no unified regulatory framework established on the European Union level. Hence, Member States were left to decide whether to regulate the collaborative economy, and, if so, when and how. This resulted in multiple approaches which significantly vary across Member States. The approaches ranged from the absence of regulations to very detailed regulations tailored to specific sectors. One of the key differences, which is of the highest importance because it determines which legal obligations apply to collaborative economy activities, is the manner in which various Member States differentiate between peer and professional service providers. Some Member States use thresholds that can take various forms depending on the sector. For instance, thresholds can be established depending on the amount of revenue gained from the activity, the maximum amount invested via platforms, the number of days of activity, the frequency of the activity or the type of asset being shared.[101] Other Member States introduced an obligation to obtain a professional authorisation or licence to provide service. For example, in most Member States, hire cars with drivers are obliged to obtain a professional licence to be able to legally operate.[102] Another popular solution is to define professional services as services provided for remuneration or profit, compared to P2P services that seek to cover the costs incurred by the service provider.[103] This can be observed in the transport sector in Belgium, Czech Republic, Ireland, Luxembourg, France, Romania, and Spain.[104] The establishing of whether certain activities are determined as professional raises various obligations in terms of market access, taxation, consumer protection, antidiscrimination rules, and labour private law. Hence, the different approaches on this issue alone have serious implications for the complexity of the whole legal framework of the collaborative economy.

[101] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, M. Naumanen (et al.), *Study to Monitor the Business and Regulatory Environment Affecting the Collaborative Economy in the EU: Final Report*, Publications Office, 2018, p. 17.

[102] *Ibidem*.

[103] *Ibidem*, p. 18.

[104] *Ibidem*.

The most recent study that comprehensively examines the various regulatory frameworks of the collaborative economy in Member States was conducted in 2018 at the request of the European Commission. In the report entitled *Study to Monitor the Business and Regulatory Environment Affecting the Collaborative Economy in the EU* the authors assessed the business environment that impacts collaborative platforms on six themes: accommodation, transport, finance, public administration, business support, and alignment.[105] Their study introduced the "Collaborative Economy Index" (CEI) to benchmark the business environment in all Member States.[106] The CEI was grounded on online surveys and on the answers provided by national academic researchers who made interviews with experts, collaborative platforms, and peer providers. In general, 129 interviews were conducted, including 65 with academic and policy experts, 54 with platform representatives, and 10 with peer providers.[107] The results of CEI ranged from 0 to 100, with higher scores indicating better performance. In order to improve the visualisation of the CEI results, the authors used three colours (green above 75, yellow between 26 and 74, red below 25). The overview of Member States results is demonstrated per theme in the following table.

Table 1: The Collaborative Economy Index for all Member States per theme

	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LV	LU	MT	NL	PL	PT	RO	SE	SI	SK	UK
Total	53	59	31	32	57	48	52	56	52	56	60	65	32	37	52	51	65	43	40	44	50	43	52	44	45	40	54	62
THEME	AT	BE	BG	CY	CZ	DE	DK	EE	EL	ES	FI	FR	HR	HU	IE	IT	LT	LV	LU	MT	NL	PL	PT	RO	SE	SI	SK	UK
Transport	58	53	27	19	62	59	42	77	38	36	38	58	35	46	50	44	77	38	50	23	58	58	46	35	42	50	62	50
Accommodation	62	28	58	62	65	33	54	62	77	42	77	55	50	50	62	54	73	73	45	46	40	69	38	73	58	46	65	58
Finance	55	76	29	21	50	57	48	30	62	89	72	77	20	11	36	42	69	27	29	46	62	7	82	42	34	35	36	58
Administration	44	88	13	19	75	44	75	63	13	57	50	75	6	25	56	75	50	25	25	38	50	31	56	13	50	38	56	81
Business support	42	58	0	25	25	42	25	33	42	58	33	75	17	42	42	58	17	33	33	58	33	25	33	17	17	17	33	100
Alignment	33	33	50	67	50	50	100	100	83	33	100	33	83	83	100	33	100	67	83	100	33	100	33	100	100	50	100	33

Source: European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, M. Naumanen (et al.), *Study to Monitor the Business and Regulatory Environment Affecting the Collaborative Economy in the EU: Final Report*, Publications Office, 2018.

The first three are vertical themes, which are dedicated to chosen sectors of economy (transport, accommodation, finance), and the last three are horizontal themes that relate to cross-cutting features affecting all these sectors. These features include:

– public administration, which covers the capacity and efficiency of the public administration at national and regional levels to support the development of the collaborative economy;

[105] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, M. Naumanen (et al.), *op. cit.*

[106] *Ibidem*, p. 9.

[107] *Ibidem*, p. 62.

– business support, which involves public support (financial, technical or in the form of business advice) for collaborative economy start-ups;
– alignment, which includes regulations on alignment of regional policies (at local and regional levels) with national policies.[108]

With regard to the spectrum of the sectoral scope, the authors decided to include:

– for the transport sector: ride sharing (e.g., BlaBlaCar, Karzoo, EasyCarClub, GoCarShare, Haxi), car sharing (e.g., SnappCar, AutoLevi, OuiCar, Caramigo, SmileCar) and ride hailing (e.g., Uber, Bolt, Lyft, Heetch) business models;
– for the accommodation sector: short-term rental (e.g., Airbnb, Wimdu, 9Flats) and short-term swapping platforms (e.g., LoveHomeSwap, GuestToGuest, HomeExchange);
– for the finance sector: P2P debt funding (e.g., Prosper, Zopa, Kiva) and equity investment (e.g., Conda.eu, Anaxago, Wiseed, SeedMatch.de).[109]

In terms of the geographical scope of the study, the regulatory environment was covered at the national and city levels, with the capital city assumed to be the most representative city.[110] However, in some Member States, researchers also examined additional cities.[111] The three Member States with the highest CEI are Lithuania, France, and the United Kingdom, whereas the lowest ranking ones are Bulgaria, Cyprus, and Hungary. However, the authors observed that:

> *While some Member states score high due to their tailored regulation for the collaborative economy in particular themes (e.g., Lithuania in transport, or Greece in accommodation), other Member States' good scores rely more on low barriers to entry for peer providers (e.g., Czech Republic, Estonia or Slovakia in transport) or the provision of tailored guidance and support for collaborative economy activities (e.g., France, or the United Kingdom).*[112]

This suggests that there is no single approach to establishing a favourable business environment for the collaborative economy within the EU, especially given that there are important differences between national and local contexts, and that the comparison of national regulatory frameworks can be misguided due to their great scope of variance.[113] It would be extremely interesting to examine how the CEI for Member States has changed during the last three years and whether some of the introduced national policies significantly contributed to the increase

[108] *Ibidem*, p. 20.
[109] *Ibidem*, p. 19.
[110] *Ibidem*, p. 61.
[111] The additional cities were, in France: Lyon and Lille; in Germany: Hamburg and Munich; in Italy: Milan and Florence; in the Netherlands: Rotterdam; in Romania: Cluj, and in the United Kingdom: Manchester and Liverpool.
[112] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, M. Naumanen (et al.), *op. cit.*, p. 109.
[113] *Ibidem*, p. 109.

of CEI. Although the CEI is an appropriate tool for replication, no subsequent studies on businesses and the regulatory environment affecting the collaborative economy in the EU have been carried out.

3.3. Impact of the COVID-19 Pandemic on Collaborative Platforms

The outbreak of the COVID-19 pandemic triggered an unprecedented global emergency that severely affected many countries, including the Member States of the EU. Not only did the COVID-19 pandemic expose the weak points of cooperation and solidarity of Member States, but it also put the ability of the EU to react quickly and effectively to test.[114] The spread of the coronavirus and the associated protective measures have had profound economic and social consequences. Since then, the EU and its Member States have faced enormous challenges in both the public health and economic sectors. These challenges have also occurred in the collaborative economy sector.

According to the European Centre for Disease Prevention and Control (ECDC), the first group of pneumonia cases with unknown origin was reported on 31 December 2019 by the Wuhan Municipal Health Commission in Wuhan City, Hubei province, China.[115] On the same day, the ECDC published a risk assessment brief, which declared that the likelihood of the migration of the new coronavirus associated with pneumonia cases from Wuhan to the EU was "considered to be low but cannot be excluded."[116] The first official European cases were reported in France within just 15 days of this assessment, on 24 January 2020.[117] At that time, cases of new disease were also confirmed in Thailand, Japan, South Korea, and the USA. At the end of January, the World Health Organization (WHO) described the rapid spread of the new coronavirus as a "public health emergency of international concern."[118] On 11 March 2020, the WHO Director General, Tedros Ad-

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[114] A. Moskal (et al.), *The European Union in Light of the COVID-19 Pandemic – A Failure of European Integration or a Chance for Closer Cooperation among Member States?*, Cracow 2021, at <https://books.akademicka.pl/publishing/catalog/view/273/856/788-5>, 1 June 2022, pp. 23-24.

[115] European Centre for Disease Prevention and Control, *Timeline of ECDC's Response to COVID-19*, at <https://www.ecdc.europa.eu/en/covid-19/timeline-ecdc-response>, 1 June 2022.

[116] European Centre for Disease Prevention and Control, *Threat Assessment Brief: Pneumonia Cases Possibly Associated with a Novel Coronavirus in Wuhan, China*, 9, at <https://www.ecdc.europa.eu/en/publications-data/pneumonia-cases-possibly-associated-novel-coronavirus-wuhan-china>, 1 June 2022.

[117] European Centre for Disease Prevention and Control, *Timeline...*

[118] World Health Organization, *Statement on the Second Meeting of the International Health Regulations (2005) Emergency Committee Regarding the Outbreak of Novel Coronavirus (2019-n-CoV)*, 30 January 2020, at <https://www.who.int/news-room/detail/30-01-2020-statement-on-the-second-meeting-of-the-international-health-regulations-(2005)-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-(2019-ncov)>, 1 June 2022.

hanom Ghebreyesus, finally declared COVID-19 a global pandemic, which constitutes the highest level of health emergency.[119] Since then, this unprecedented emergency evolved into the biggest global public health and economic crisis ever, affecting the $90 trillion global economy beyond anything experienced in almost a century.[120]

The outbreak of the COVID-19 pandemic, which coincided with the withdrawal of the United Kingdom from the European Union on 31 January 2020, has had a detrimental impact on the economy of the EU27. Although European economies seemed not to be significantly affected by the spread of the coronavirus at the beginning of the year, from mid-March 2020 onward, economic downfall was looming in many areas. Due to public health measures such as lockdowns and severe restrictions on movement and business activities, the GDP at market prices, as well as overall consumption expenditure of private households, dropped significantly. In April 2020, the Economic Sentiment Indicator (ESI), which reflects the economic climate in the European Union, fell by almost 29 points to 67.1, which constitutes the sharpest decline since the beginning of the survey in 1985.[121]

After the initial shock to economic activity in the first half of 2020, the EU economy eventually rebounded in the third quarter of 2020, when pandemic-related restrictions were gradually lifted in most Member States.[122] However, an increase in the number of COVID-19 infections and deaths in the last quarter of 2020 led to another decrease in economic activity.

Overall, the first year of the COVID-19 pandemic resulted in a major contraction in EU economic activity in 2020, with the headline EU deficit increasing to about 7% of GDP in 2020 from 0.5% in 2019, while the aggregate debt ratio increased from 79% in 2019 to 92% of GDP in 2020.[123] Compared to 2019, the unemployment rate in 2020 increased sharply both in the EU27 and in the euro area (increase from 6.7% to 7.1%, and from 7.6% to 7.9%, respectively).[124] In order

[119] World Health Organization, Director-General's Opening Remarks at the Media Briefing on COVID-19, 11 March 2020, at <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>, 1 June 2022.

[120] Congressional Research Service, *Global Economic Effects of COVID-19*, CRS Report, R46270, updated 10 November 2021, at <https://sgp.fas.org/crs/row/R46270.pdf>, 1 June 2022, p. 1.

[121] Destatis, *EU-Monitor COVID-19. Interactive Graphics and Statistics on the Impact of the Pandemic*, at <https://www.destatis.de/Europa/EN/Topic/COVID-19/COVID-19-article.html>, 1 June 2022.

[122] European Parliament, J.M. de Vet Jan Maarten (et al.), *Impacts of the COVID-19 Pandemic on EU Industries*, PE 662.903, March 2021, at <https://www.europarl.europa.eu/RegData/etudes/STUD/2021/662903/IPOL_STU(2021)662903_EN.pdf>, 1 June 2022, p. 14.

[123] European Commission, *Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee, the Committee of the Regions, The EU economy after COVID-19: Implications for Economic Governance*, COM(2021) 662 final, Strasbourg 2021, pp. 4-5.

[124] Statistica, *Unemployment Rate in the European Union and the Euro Area from 2010 to 2020*, at <https://www.statista.com/statistics/267906/unemployment-rate-in-eu-and-euro-area/>, 1 June 2022.

to mitigate the economic downturn in 2020, serious steps were taken in both the public health and the economic sectors. Thanks to successful EU funds and policies, an accelerated vaccine rollout, and the gradual easing of containment measures, the spring of 2021 came with significant growth in the economy. The Consumer Price Index (CPI) indicated that the inflation rate over the course of 2020 (0.49 in 2020 compared to 1.63 in 2019) was largely reversed during 2021. Overall, the European Commission's *European Economic Forecast Winter 2021* predicts 3.9% growth in GDP in 2022 for the entire EU, and 3.8% in the euro area.[125] It is also anticipated that the EU's economy will reach the pre-crisis level by mid-2022.[126]

The immense repercussions of the COVID-19 pandemic were noticeable in the collaborative economy sector, which suffered massively from the downfall of the global hospitality and tourism industry. Transportation and accommodation, which constitute two of the largest collaborative sectors in terms of the number of daily users and revenue, were the most negatively affected by the lockdown and restrictions. Many users cancelled their accommodation bookings or refrained from ride-sharing and ride-hailing services at the beginning of the pandemic. This is because the COVID-19 crisis exposed the risks involved in sharing accommodation and transportation with strangers and undermined trust of users, which is, as discussed in Chapter 2, the key driver of the collaborative economy. Hence, multiple activities offered by the platforms were considerably reduced or came to a standstill during the first months of the COVID-19 pandemic. Consequently, workers from popular accommodation and transportation platforms found themselves in a precarious situation after the introduction of pandemic-related restrictions and lockdowns. Millions of workers lost their livelihoods because they were out of work or had to perform their work under restricted conditions or at lower capacity. Due to the fact that collaborative economy service providers are overwhelmingly treated as independent contractors instead of employees, they were not even entitled to basic labour and social protections. It was also revealed that COVID-19 has affected vulnerable groups disproportionately, including those who work primarily in the collaborative economy (especially as drivers).[127] Additionally, the Covid-19 triggered investor anxiety and mistrust between different stakeholders in the collaborative economy.[128]

Despite these negative factors, it cannot be concluded that the COVID-19 pandemic was detrimental to all collaborative economy platforms and activities.

[125] European Commission, *European Economic Forecast, Winter 2021 (Interim)*, Institutional Paper 144, February 2021, p. 1.

[126] European Parliament, J.M. de Vet Jan Maarten (et al.), *op. cit.*, p. 8.

[127] K. Evelyn, '*It's A Racial Justice Issue': Black Americans Are Dying in Greater Numbers from Covid-19*, The Guardian, published on 8 April 2020, at <https://www.theguardian.com/world/2020/apr/08/its-a-racial-justice-issue-black-americans-are-dying-in-greater-numbers-from-covid-19>, 1 June 2022.

[128] M. Hossain, "The Effect of the Covid-19 on Sharing Economy Activities," *Journal of Cleaner Production*, Volume 280, Part 1, October 2020, p. 2.

The empirical results of research conducted in 2020 demonstrated that, although transportation and accommodation sectors have been negatively impacted by the initial COVID-19 related lockdowns, the other sectors of the collaborative economy such as freelance work, streaming services, and online deliveries have been seeing a surge in activity.[129] The ongoing crisis provides an impressive boost to the growth of the platforms offering food delivery, which significantly increased in popularity during lockdowns.[130] There was also a substantial increase in demand for freelance work due to the closure of offices. The COVID-19 crisis has also greatly accelerated digital transformation in all Member States. Due to prolonged lockdowns and severe movement restrictions, masses of people had to start working or studying from home, and online services and e-commerce thrived. As a result, digital adoption increased from 81% to 95% in the EU, which is estimated to be a rise that would have taken two to three years in most industries at pre-pandemic growth rates.[131] The COVID-19 crisis has also forced collaborative economy platforms to alter their business policies in order to adapt to higher standards regarding public health and safety. For example, Airbnb has adopted new cleaning protocols for hosts, whereas Uber and Lyft drivers were advised to regularly disinfect cars, wash their hands, and stay home if they felt sick.[132] It is expected that both ride-hailing and home-sharing health and safety practices will eventually revert back to their pre-pandemic state.[133]

In conclusion, the COVID-19 pandemic posed a serious threat to the survival of the collaborative economy due to the strict rules on social distasting, hygiene, and safety. However, the conjecture that this pandemic will bring on the collapse of the whole collaborative economy is misguided, because the effects of COVID-19 related restrictions are not severe for the entirety of the wide spectrum of collaborative economy platforms, and in some cases were even beneficial. For instance, many of the platforms offering food delivery, meal-sharing, and freelance work increased in popularity during prolonged lockdowns. Furthermore, multiple other collaborative platforms managed to transform their business models and stay up to date with governmental guidelines and health recommendations. The most visible defect of the collaborative economy, which was highlighted by

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[129] M. Batool (et al.), "How COVID-19 Has Shaken the Sharing Economy? An Analysis Using Google Trends Data," *Economic Research-Ekonomska Istraživanja*, Volume 34, Number 1, 2021, pp. 2374-2386.

[130] O. Mhlanga, "'Meal-sharing' Platforms: A Boon or Bane for Restaurants?," *Current Issues in Tourism*, January 2020, pp. 1-18.

[131] McKinsey Digital, *Europe's Digital Migration during Covid-19 Getting Past the Broad Trends and Averages*, July 2020, at <https://www.mckinsey.com/business-functions/mckinsey-digital/our-insights/europes-digital-migration-during-covid-19-getting-past-the-broad-trends-and-averages>, 1 June 2022.

[132] M. Hossain, *op. cit.*, p. 6.

[133] CEPS Task Force Report, *Europe's Collaborative Economy: Charting a Constructive Path Forward*, Brussels, November 2020, p. 2.

the COVID-19 pandemic, is the lack of a safety net for workers of the collaborative economy, especially of those whose entire income depends on performance in this sector. This makes a strong case for providing workers with at least basic social employment protection. The long-term impacts on the development of the collaborative economy ecosystem, the success of its newest adaptations, and the psychological and behavioural reactions of customers are still unknown and should be further researched in the future. Overall, the COVID-19 crisis illuminates and exacerbates the need to address regulatory problems regarding the collaborative economy, the resolution of which requires detailed and practical reforms tailored to the sectors.[134]

3.4. The Evolution of the EU Institutions' Approach towards Collaborative Platforms

In 2014, the President of the European Commission, Jean-Claude Juncker, set out ten high priority areas of the political agenda of the European Commission for 2014-19, and one of them involved building a deeper and fairer internal market.[135] The Single Market Strategy, adopted in October 2015, announced that the Commission will "develop a European agenda for the collaborative economy, including guidance on how existing EU law applies to collaborative economy business models."[136] Fulfilling this promise, in June 2016, the Commission released "A European Agenda for the Collaborative Economy" in order to "provide legal guidance and policy orientation to public authorities, market operators and interested citizens for the balanced and sustainable development of the collaborative economy."[137]

What is noteworthy is the fact that, despite public expectations that the Commission will introduce a set of binding rules, the Commission actually decided to address the collaborative economy in the form of a non-binding document rather than implementing a regulation or directive.[138] There are several reasons behind

[134] *Ibidem*, p. i.

[135] European Parliament, *Setting EU Priorities, 2014-19: The Ten Points of Jean-Claude Juncker's Political Guidelines*, Briefing, October 2014, at <https://www.europarl.europa.eu/EPRS/EPRS-Briefing-538963-Setting-EU-Priorities-2014-19-FINAL.pdf>, 1 June 2022.

[136] European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Upgrading the Single Market: More Opportunities for People and Business*, (COM (2015) 550 final), Brussels, 28.10.2015, p. 4.

[137] European Commission, *Communication from the Commission...*, COM/2016/0356, p. 2.

[138] See an in-depth analysis of this issue in K. Rugo, *Regulating Collaborative Economy in the European Union – Why Did the European Commission Choose a Soft Law Instrument?*, master thesis, May 2017, at <https://www.researchgate.net/publication/321729496_Regulating_Collaborative_Economy_in_the_European_Union_-_Why_did_the_European_Commission_Choose_a_Soft_Law_Instrument>, 1 June 2022.

this decision. The Commission fulfilled its obligations expressed in the Article 11(3) of the Treaty on the European Union (hereinafter: TEU)[139] by conducting public consultation,[140] which revealed that most stakeholders preferred to receive more guidance and better information. Hence, opting for a soft law satisfied these expectations. Moreover, in 2016, the collaborative economy was rapidly growing in Europe, and it was extremely difficult to capture its constantly evolving nature within rigid frames. It is believed that soft law is more suited to facilitate uncertain situations that might undergo constant adjustments and experimentation.[141] Additionally, soft law is much easier and faster to adapt, because it requires a less formal process of implementation and does not assume reconciling conflicting interests of various parties involved.[142] In the case of the collaborative economy, the consensus between Member States, stakeholders, and users could be particularly difficult to reach due to their conflicting goals and needs. Last but not least, soft law instruments are frequently used to regulate new policy areas, and then they are gradually replaced with more binding solutions when the legislator gets a better understanding of the potential benefits, challenges, and risks of that new area. Initially refraining from hard law measures leaves Member States with more flexibility in shaping their policies in accordance with their local and regional needs, national economic strategies, and cultural characteristics.

The Commission's Agenda for the collaborative economy got a positive reception from both the European Parliament and the European Economic and Social Committee. The Parliament assessed the document as the first step towards a well-balanced, more comprehensive, and ambitious EU strategy on the collaborative economy; however, it also noted that the Agenda did not bring sufficient clarity about the applicability of existing EU legislation to different collaborative economy models.[143] The Parliament also observed that the collaborative economy needed to remain open to research on which businesses should be enabled to grow by reducing or removing the barriers, duplication, and fragmentation that hinder cross-border development.[144] The European Economic and Social Committee encouraged the Commission to develop a more detailed and inclusive con-

[139] Article 11 (3) TEU: "The European Commission shall carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent." Source: Consolidated version of the Treaty on European Union, OJ C 326, 26 October 2012.

[140] European Commission, *Synopsis Report on The Public Consultation on the Regulatory Environment for Platforms, Online Intermediaries and the Collaborative Economy*, at <http://ec.europa.eu/newsroom/dae/document.cfm?doc_id=15877>, 1 June 2022, p. 3.

[141] K. Rugo, *op. cit.*, p. 16.

[142] M.D. Trubek, P. Cottrell, M. Nance, *"Soft Law," "Hard Law," and European Integration: Toward a Theory of Hybridity*, April 2005, at <http://law.wisc.edu/facstaff/trubek/hybriditypaper april2005.pdf>, 1 June 2022, pp. 3 and 5.

[143] European Parliament, *Resolution of 15 June 2017 on a European Agenda for the Collaborative Economy*, 2017/2003(INI), OJ C 331, p. 4.

[144] *Ibidem*, pp. 3 and 9.

ceptual approach to the collaborative economy and to establish a specific methodology for regulating and measuring collaborative platforms.[145] The Committee also noted that "[i]n its Communication, the Commission misses what should be its main objective, failing to respond to the legitimate expectations of relevant stakeholders – defining a model and parameters within a clear and transparent legal framework in which the multiple forms of the collaborative economy can develop and operate in the European area, be supported and implemented and gain credibility and trust."[146] These constructive responses encouraged the European Commission to carry out essential studies in order to increase the knowledge about the collaborative economy in the EU and to indicate potential solutions to the identified challenges. Consequently, the Commission published a series of papers in the following years.

At the end of 2016, the European Commission released "The European collaborative economy: a research agenda for policy support"[147] and "The future of the European collaborative economy."[148] In 2017, the following reports were published: "Assessing the size and presence of the collaborative economy in Europe,"[149] "Collaborative business models and efficiency. Potential efficiency gains in the European Union: impulse paper N° 7,"[150] "The impact of the collaborative economy on the labour market"[151] and "Literature review on taxation, entrepreneurship and collaborative economy: final report."[152] In the next year, the Commission published several papers, including "An overview of European platforms: scope and business models,"[153] "Study to monitor the economic development of the collaborative economy at sector level in the 28 EU Member States,"[154] "Study to monitor

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[145] European Economic and Social Committee, *Opinion of the European Economic and Social Committee on 'Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – A European Agenda for the Collaborative Economy'*, OJ C 75, p. 1.

[146] *Ibidem*, point 3.2.

[147] European Commission, Joint Research Centre, F. Celikel Esser (et al.), *The European Collaborative Economy: A Research Agenda for Policy Support*, Publications Office, 2016.

[148] European Commission, Joint Research Centre, A. Szczepanikova (et al.), *The Future of the European Collaborative Economy*, Publications Office, 2016.

[149] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, R. Vaughan, R. Daverio, *op. cit.*

[150] V. Demary, B. Engels, *op. cit.*

[151] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, I. Maselli, W. de Groen, *The Impact of the Collaborative Economy on the Labour Market*, Publications Office, 2017.

[152] European Commission, Directorate-General for Taxation and Customs Union, I. Styczyńska (et al.), *Literature Review on Taxation, Entrepreneurship and Collaborative Economy: Final Report*, Publications Office, 2017.

[153] European Commission, Joint Research Centre, M. Beblavý (et al.), *An Overview of European Platforms: Scope and Business Models*, Publications Office, 2018.

[154] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, M. Nunu (et al.), *op. cit.*, p. 30.

the business and regulatory environment affecting the collaborative economy in the EU,"[155] "Environmental potential of the collaborative economy: Final Report and Annexes,"[156] "Study on the assessment of the regulatory aspects affecting the collaborative economy in the tourism accommodation sector in the 28 Member States (580/PP/GRO/IMA/15/15111J)"[157] and "Gender equality and the collaborative economy." The most recent Eurobarometer on the use of the collaborative economy[158] and the European Parliament's "The collaborative economy and taxation: Taxing the value created in the collaborative economy: in-depth analysis"[159] were also published that year.

Additionally, in October 2018, the European Commission held a conference *Collaborative Economy: Opportunities, Challenges, Policies* to evaluate recent policy, regulatory and market developments. At the conference, the EU Commissioner, Elżbieta Bieńkowska, presented the position of the Commission that the European Single Market must help new business models.[160] In response, a panelist on policy and market developments, Mr Frédéric Mazzella (founder and President of BlablaCar), urged the Commission to be more active and take imminent measures to address regulatory fragmentation in the EU so that businesses can scale up and Europe is not left further behind the US and China.[161] Despite this reasonably justified call for action, the European Commission has not made any more attempts to adopt a regulatory framework on the collaborative economy at the EU level. Moreover, after 2018, the number of published studies devoted to the collaborative economy decreased significantly. Subsequent papers focused solely on the sector of accommodation due to the protests against Airbnb in tourist-clogged European cities.

At the end of 2019, the European Committee of the Regions released the opinion titled *A European Framework for Regulatory Responses to the Collaborative Economy* in which it was evaluated that the existing EU regulatory framework was effectively outdated and could not respond to the challenges posed by the collab-

[155] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, M. Naumanen (et al.), *op. cit.*

[156] European Commission, Directorate-General for Environment, H. Pollitt (et al.), *Environmental Potential of the Collaborative Economy: Final Report and Annexes*, Publications Office, 2018.

[157] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, P. McNally (et al.), *Study on the Assessment of the Regulatory Aspects Affecting the Collaborative Economy in the Tourism Accommodation Sector in the 28 Member States (580/PP/GRO/IMA/15/15111J): Final Report*, Publications Office, 2018.

[158] European Commission, *Flash Eurobarometer 467…*

[159] European Parliament, Directorate-General for Parliamentary Research Services, C. Remeur, *The Collaborative Economy and Taxation: Taxing the Value Created in the Collaborative Economy: In-Depth Analysis*, 2018.

[160] M. Peristeraki, *The Sharing Economy: Legal Fragmentation Might Lead to Harmonization of the Law*, EY Law, at <https://www.eylaw.be/2020/06/12/the-sharing-economy-legal-fragmentation-might-lead-to-harmonization-of-the-law/>, 1 June 2022.

[161] *Ibidem.*

orative economy without a complete update.[162] Therefore, the Committee called the European Commission to put the collaborative economy at the forefront of its priorities for the 2019-24 term of office, and to produce studies on the possible environmental impact of the collaborative economy by the second half of 2020. However, after the outbreak of coronavirus in Europe, the issue of the COVID-19 pandemic dominated the focus of the European Commission.

Overall, it can be concluded that the EU institutions, with the European Commission in the lead, initially saw the collaborative economy as an economic opportunity to create growth, jobs, and benefits for consumers. Instead of immediately applying hard law legal instruments to provide a strict regulatory framework for this new sector of the economy, the European Commission decided to issue a non-binding agenda with general guidelines for Member States, which would enable the sector to develop and give the EU time to examine the subject. While the EU institutions were engaged in a number of studies, surveys, and events to increase their understanding of the collaborative economy, the Member States and their local entities struggled with the negative outcomes and challenges posed by collaborative platform operation. The qualification of collaborative platforms eventually ended up in front of the Court of Justice of the European Union (hereinafter: CJEU, Court), which spoke on this issue in the following cases.

In the *Elite Taxi v Uber* (also known as *Uber Spain*) case,[163] the Spanish court provided four questions to the CJEU for a preliminary ruling, which essentially attempted to establish whether Uber should be classified as a transport service, as an electronic intermediary service, or an information society service. In the classification of Uber's activity, the Court followed reasoning presented in the Opinion of the Advocate General, Maciej Szpunar, to adopt a holistic and functional approach that takes into consideration the significance of the service.[164] The application of the "decisive influence test" (later also known as the "Uber test") helped the CJEU to reach the conclusion that Uber provides transportation services rather than mere intermediation services or information society services. Given that transportation services are excluded from the scope of the freedom to provide services, as well as the directive on services in the internal market and the directive on electronic commerce, Uber could not rely on the free movement of services and had to follow national law. This judgement implies that Member States can regulate the conditions for providing that service as they see fit, and Uber can thus be required to obtain the necessary licences and authorisations under national law.

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[162] European Committee of the Regions, *Opinion: A European Framework for Regulatory Responses to the Collaborative Economy*, ECON-VI/048, 137th plenary session, 4-5 December 2019, at <https://cor.europa.eu/en/our-work/Pages/OpinionTimeline.aspx?opId=CDR-1951-2019>, 1 June 2022.

[163] Judgment of the Court (Grand Chamber) of 20 December 2017, *Asociación Profesional Elite Taxi v Uber Systems Spain SL*, Case C-434/15, ECLI:EU:C:2017:981.

[164] Opinion of Advocate General Szpunar, delivered on 11 May 2017, *Asociación Profesional Elite Taxi v Uber Systems Spain, SL*, Case C-434/15, ECLI:EU:C:2017:364.

Just a few months later, in April 2018, the CJEU handed down its judgment in Case C-320/16 *Uber France*, ruling that Member States may prohibit and punish, as a matter of criminal law, the illegal exercise of transport activities in the context of the UberPop service, without notifying the Commission in advance.[165] According to the Court, the main component of the intermediation service is a transport service, and therefore, the intermediation service must be classified, not as an "information society service" within the meaning of Directive 98/34/EC, but as a "service in the field of transport" within the meaning of Directive 2006/123/EC. As a result, the obligation to notify the Commission in advance, as provided in Directive 98/34/EC, could not apply. By ruling so, the Court confirmed that the essence of the service provided by Uber is transport. This conclusion was backed up by the observation that the corporation has a decisive influence over the conditions of the service offered, and, without its intermediation, the users would not have accessed the services provided by those drivers. This judgement follows the *Elite Taxi v Uber* ruling, which classified Uber as a transport service, therefore depriving the company of the protections against undue state regulation that other digital services enjoy under EU law.

Soon after the Uber judgments, Airbnb became the next subject of the CJEU's examination in the *Airbnb Ireland* case.[166] The question that the Court had to answer was whether Airbnb services must be regarded as an "information society service" under Directive 2000/31. This case is similar to the previous two Uber judgments in the sense that they all aimed to determine whether the companies should be regarded as mere providers of information society services or as performing an activity in the transport (Uber) or accommodation (Airbnb) sectors. However, this time the ruling took the exact opposite direction. In his opinion on this case, Advocate General Maciej Szpunar took the position that Airbnb provides an information society service and proposed a revision of the "Uber test" which was established in the above-described case-law of the CJEU.[167] Likewise, the CJEU decided that Airbnb should be considered a digital information provider rather than a traditional real estate agent. The implication of the different classification of these two business models is of significant importance for digital platforms, as this judgement sets out the conditions for which platform's activities determine the applicable legal regime. Therefore, this qualification directly implies whether the company can, as an information society service, enjoy the freedom of movement of services in the European Single Market, and indirectly determines the liability of the platform.

[165] Judgment of the Court (Grand Chamber) of 10 April 2018, *Criminal proceedings against Uber France*, Case C-320/16, ECLI:EU:C:2018:221.

[166] Judgment of the Court (Grand Chamber) of 19 December 2019, *Airbnb Ireland*, C-390/18, ECLI:EU:C:2019:1112.

[167] Opinion of Advocate General Szpunar, delivered on 30 April 2019, *Airbnb Ireland*, Case C-390/18, ECLI:EU:C:2019:336.

The three above-mentioned cases prove how impactful the case law of the Court of Justice of the European Union is on shaping business models in the collaborative economy.

3.5. The Evolution of the United Kingdom's Approach towards Collaborative Platforms

Prior to its startling withdrawal from the European Union on 1 January 2021, the United Kingdom constituted one of the biggest collaborative economy markets in the EU and was the leader in the digital activity on the continent. The collaborative economy sector in the United Kingdom was estimated to be worth £0.5 billion in 2014 and was forecast to reach £9 billion by 2025.[168] The analysis carried out for the European Commission described the UK as a hub for the collaborative economy within the region, creating more platforms than its continental neighbours.[169] The British government very quickly recognised the potential behind the collaborative economy and announced its plans to make the UK "global centre for the sharing economy."[170] Thus, it is worth analysing the approach and policies adopted by the British government toward the collaborative economy and highlight the factors which enable collaborative economy platforms to thrive in the UK.

With a view to develop this economic sector, as early as in 2014, the British government commissioned an independent review to assess opportunities and risks that the collaborative economy can pose to traditional business. Debbie Wosskow, the Chief Executive Officer of Love Home Swap, led a review which covered a wide set of areas; including supporting innovation and growth, trust and identity, government procurement, liability, digital inclusion, as well as sector-based suggestions (accommodation, transport, services based on sharing time and skills).[171] The government was recommended to provide targeted financing

[168] Estimations based on PwC analysis (at <https://pwc.blogs.com/press_room/2014/08/five-key-sharing-economy-sectors-could-generate-9-billion-of-uk-revenues-by-2025.html>) and repeat ed by the Office for National Statistics in: *The Feasibility of Measuring the Sharing Economy*, April 2016, at <https://www.ons.gov.uk/economy/economicoutputandproductivity/output/articles/thefeasibilityofmeasuringthesharingeconomy/2016-04-05>, 1 June 2022.

[169] PwC, *UK's Key Sharing Economy Sectors Could Deliver £140 Billion by 2025*, at <https://pwc.blogs.com/press_room/2014/08/five-key-sharing-economy-sectors-could-generate-9-billion-of-uk-revenues-by-2025.html>, 1 June 2022.

[170] Government of the United Kingdom, *Move to Make UK Global Centre for Sharing Economy*, 2014, at <https://www.gov.uk/government/news/move-to-make-uk-global-centre-for-sharing-economy>, 1 June 2022.

[171] D. Wosskow, *Unlocking the Sharing Economy. An Independent Review*, November 2014, at <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/378291/bis-14-1227-unlocking-the-sharing-economy-an-independent-review.pdf>, 1 June 2022, pp. 7-11.

for collaborative economy services, support research into collaborative economy business models, establish and promote best market practices, build consumers' trust in online transactions and engage online those who are digitally excluded, work with cities, companies and local areas to see how they work better together and use resources more efficiently, and help create a trade body representative of all sectors.[172]

Following the recommendations from the review, the British government decided to maintain some flexibility in certain areas of regulation and even leave some collaborative economy activity to be regulated at the local level.[173] Moreover, many areas remained unregulated until industry associations, market competitors, or local authorities pressured the government to take action. In fact, many business and academic organisations had a significant impact on shaping British regulations concerning the collaborative economy. For instance, one of the most powerful British trade bodies is the Sharing Economy UK (SEUK), which consists of 21 members from all across collaborative economy sectors, including Zipcar, Airbnb, and Tech City. SEUK was launched in response to the review's recommendation in 2015 for the formation of a representation of a wide range of platforms which declare to share the collective mission "to empower people to utilise existing resources and reduce waste."[174] The SEUK works closely with the government to analyse the economic, social, and labour impacts of the business activity, develop effective policies for the collaborative economy, and balance consumer protection and platform needs. One of the most recognised achievements of SEUK is the implementation of a kitemark called the Trust Seal, which sets good practices for sharing economy businesses to follow in order to maintain high standards. A brilliant example from the academic background is Leeds Beckett University, which leads the Erasmus+ project on the collaborative economy titled "Higher Education Curricula Development on the Collaborative Economy in Europe" (also known as COLECO). This project focuses on developing curricula on the collaborative economy and sharing knowledge about this new novel sector.

Thanks to this collective effort, the collaborative economy is well perceived by British society. A survey, conducted in 2017 by the research team at Warwick Business School at the University of Warwick and consulted with by members of Sharing Economy UK, demonstrated that 62% of the British population participated in some form of sharing economy and 73% of them engaged in the sharing

[172] *Ibidem*, pp. 8-9.

[173] P.-V. Rodrigo (et al.), "United Kingdom: An Examination of the Configuration of the Sharing Economy, Pressing Issues, and Research Directions," in: A. Klimczuk, V. Česnuitytė, G. Avram (eds) *The Collaborative Economy in Action: European Perspectives*, Limerick 2021, p. 365.

[174] Sharing Economy UK, *About us*, at <https://www.sharingeconomyuk.com/about>, 1 June 2022.

economy more than once a month.[175] The motivations of the largest users to participate in the collaborative economy are convenience, availability, and savings, whereas for service providers, environmental factors are also significant reasons to participate in the collaborative economy.[176] It is estimated that around 11% of working-age British take part in the collaborative economy as service providers, and for 23% of them, this activity is a main source of their income.[177] Regarding non-users, 89% declared that they could use help and training in order to participate the collaborative economy.[178] Interestingly, the authors of the survey asked the respondents about their perception of the SEUK's Trust Seal initiative and found that 96% consumers and 94% of service providers state that they highly value the Trust Seal.[179]

Overall, it can be concluded that, since 2014, collaborative platforms have been thriving in the UK because they found a foothold in business-friendly government which supports innovation and attempts to integrate new business models into the existing market. Moreover, British society is quite open-minded and genuinely interested in participating in novel business activities.[180] However, even in such a positive surrounding, there are legal, economic, and socio-environmental challenges, which the platforms and British lawmakers still have to face. The most pressing issues include taxation compliance, impact on the short-rental and hotel industry, the omission of health and safety regulations, digital exclusion, and harmful impact of business activity on the environment. However, since 2019, the biggest challenge for the collaborative economy was the economic crisis caused by the COVID-19 pandemic. Throughout this difficult time, the British government supported innovative start-ups and scaled up businesses, as well as small and medium-sized enterprises by assisting them with adopting productivity-enhancing software for a digital and management boost, introducing Recovery Loan Scheme, and granting VAT reduction for accommodation and hospitality sectors, which suffered the most from lockdowns and travel restrictions.[181] Additionally, the UK Infrastructure Bank financed local authority and private sector infrastructure projects to help to address climate change and promote economic

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[175] P. Ozcan, M. Möhlmann, Ch. Krishnamoorthy, *Who Shares and Who Doesn't? Results of the UK Sharing Economy Consumer Survey 2017*, Report 2017, at <https://www.wbs.ac.uk/wbs2012/assets/PDF/downloads/press/ResultsofUKSharingEconomyConsumerSurvery2017.pdf>, 1 June 2022, p. 3.

[176] *Ibidem*, p. 4.

[177] Her Majesty's Revenue and Customs Report 453, *Research on the Sharing Economy*, May 2017, pp. 4 and 70.

[178] P. Ozcan, M. Möhlmann, Ch. Krishnamoorthy, *op. cit.*, p. 5.

[179] *Ibidem*, p. 15.

[180] P.-V. Rodrigo (et al.), *op. cit.*, p. 369.

[181] Sharing Economy UK, *Sharing Economy UK Responds to Budget 2021. Sharing Economy UK Has Responded to the Chancellor's 2021 'Budget for Recovery'*, at <https://www.sharingeconomyuk.com/blog/sharing-economy-uk-responds-to-budget-2021>, 1 June 2022.

growth.[182] Besides this, many collaborative platforms introduced changes in business models to continue operating. Thanks to these efforts, collaborative platforms survived and continued to make a significant contribution to the British economy throughout the COVID-19 crisis.[183]

Many British companies improve their health and safety standards in accordance with the COVID-19 policies and introduced new adaptations to help protect everyone and improve long-term sustainability.[184] This has had a positive impact on local communities and the environment. Not only did collaborative platforms prove to remain resilient during the time of an unprecedent health and economic crisis, but also showcased their ability to adapt to new circumstances and meet the demands for a sustainable future. For instance, over the course of a year, British guests who stayed with hosts in Airbnb listings instead of chain hotels, reduced greenhouse gas emissions equivalent to 297,000 cars, and reduced waste by 14,800 tons.[185] Another example is the British company HURR which partnered with RePack and Oxwash to provide reusable packaging and space-age dry cleaning in order to cut down on carbon emissions.[186] Similarly, since the first lockdown, the company By Rotation endeavoured to provide users with access to more sustainable fashion by prolonging the life cycle of clothes and accessories already in circulation. This resulted in the annual repurposing of £140 million worth of textiles that would have otherwise ended up in landfill.[187] These examples indicate that the COVID-19 crisis turned out to be a trigger for collaborative platforms and the British government to focus on local communities and increasing sustainability.

3.6. Summary

Since 2014, the European Union and its Member States have begun paying attention to the presence and function of collaborative platforms in Europe. In 2015, more than 275 collaborative economy platforms were estimated to generate nearly € 4 billion in revenue and facilitate € 28 billion of transactions within Europe, with a potential increase of up to € 572 billion by 2025.[188] The enor-

[182] *Ibidem.*

[183] Sharing Economy UK, *Open Letter to the Chancellor: VAT and the Sharing Economy*, at <https://www.sharingeconomyuk.com/blog/open-letter-to-the-chancellor-vat-and-the-sharing-economy>, 1 June 2022.

[184] Sharing Economy UK, *The UK's Enduring Sharing Economy*, at <https://static1.squarespace.com/static/5dcfc7243cb7ec3c88e6e43c/t/60083dbadca4d06650894d95/1611152828165/Sharing+Economy+UK+-+The+UK%27s+Enduring+Sharing+Economy.pdf>, 1 June 2022, p. 1.

[185] *Ibidem*, p. 7.

[186] *Ibidem.*

[187] *Ibidem.*

[188] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, R. Vaughan, R. Daverio, *op. cit.*, p. 7.

mous potential behind the collaborative economy is the main rationale for the European Commission's actions to monitor and develop collaborative platforms in Europe. Numerous surveys, scientific investigations, and economic analyses devoted to the size and impact of the collaborative economy were conducted for the European Commission between 2014 and 2018. However, since 2019, a notable decrease in interest in examining collaborative platforms in Europe has been observed, as the COVID-19 pandemic and the Russian invasion in Ukraine have almost completely taken up public and political spaces.

Currently, collaborative platforms dominate five economic sectors in Europe: accommodation, transportation, on-demand household services, on-demand professional services, and collaborative finance. Specifically, the first two, that is, accommodation and transportation, constitute the core area of collaborative economy business activity. Since 2014, the number of European citizens joining the collaborative economy as both users and providers has been continually increasing, and collaborative platforms have been rising in popularity. The main motivations for participating in the collaborative economy are financial benefit and convenience. These are followed by a desire to participate in more sustainable and environmentally friendly transactions, as well as a wish to engage in the local community. Additionally, many local and state authorities recognise the benefits of investing in the collaborative economy and take actions to support innovative business models.

In the European Union, due to the fact that no obligatory legal framework and policy has been introduced at the universal level, collaborative platforms are addressed differently by various countries. The leading European states, in terms of the size of collaborative economy market and best job opportunities in the sector, are France, Spain, Poland, and the United Kingdom. However, regardless of the magnitude of the collaborative economy, all countries face the same challenges, which include backlash from traditional competitors (especially taxi companies and hotels), tax evasion and uncertainty, the ambiguous status of the workers, social injustice, environmental damage, as well as the issues of liability of online platforms, and data protection and usage. With an objective to address these problems, some countries introduced very detailed provisions, whereas others gave platforms a space to develop and self-regulate. This has led to extremely varied policies and regulations towards collaborative platforms within the European Union.

In order to provide general guidelines for Member States on how existing European Union law should be applied to the collaborative economy, the European Commission adopted the Agenda in June 2016. Although the Agenda defined the collaborative economy and identified its most pressing market and regulatory challenges in Europe, it did not provide any strict regulations or practical problem-solving solutions. Essentially, instead of introducing hard law, such as resolutions or directives, to immediately address the problems arising from the collaborative economy, the European Commission opted for applying soft law in the form of a non-binding agenda and observing how the market developed. On the one hand, this cautious approach has allowed platforms to thrive and grow without much legislative intervention. On the other hand, this approach has shifted the burden of regulation to Member States, and left most of the aforementioned problems unresolved.

One of the most interesting examples of a European country that has recognised and actively addressed the collaborative economy from the very beginning of its development is the United Kingdom. In contrast to the European Commission's approach to first observe and then regulate, the British government began to cooperate very early on with representatives of collaborative platforms in order to develop the most sustainable and effective solutions. It will be extremely interesting to see how the United Kingdom continues to regulate the collaborative economy sector, especially once it is no longer bound by the EU law.

4. Sustainable Development Goals and the Collaborative Economy in the European Union

4.1. Sustainable Development Goals within EU Policy

The Sustainable Development Goals (SDGs), also known as the Global Goals, constitute a collection of 17 interlinked objectives adopted in the 2030 Agenda for Sustainable Development[189] by the United Nations General Assembly. The SDGs are built on the Millennium Development Goals (MDGs), which ended in 2015, and are intended to serve as a roadmap for UN states toward sustainable prosperity, social inclusion, and equality. The SGDs are planned to be achieved by 2030. They constitute a powerful call for action to end poverty and inequality, protect the planet, and ensure that all people enjoy health, justice, and prosperity. With a view to build a more sustainable future for everyone, the SDGs were set up to tackle all three dimensions of sustainable development: the economic, social, and environmental dimensions, in a balanced and integrated manner.[190] These dimensions are also informally called "3P": profit, people and planet. They address a wide range of issues, including complex issues such as quality education, affordable energy, clean water and sanitation, gender equality, good health and well-being, economic growth, climate action, social justice, and responsible consumption and production. The SDGs are not an objective in and of themselves, but they rather serve as a compass to achieve a long-term vision, transcending electoral periods and requiring the achievement of short-term sub-goals first.

For the European Union, sustainable development is a core principle of the Treaty on the European Union and a major priority for shaping its internal and external policies. Article 3TEU states that the Single Market should "work for the sustainable development of Europe based on balanced economic growth and

[189] United Nations, Resolution adopted by the General Assembly on 25 September 2015 (70/1), Transforming Our World: The 2030 Agenda for Sustainable Development, A/RES/70/1.

[190] *Ibidem*, p. 1.

price stability, a highly competitive social market economy, aiming at full employment and social progress, and a high level of protection and improvement of the quality of the environment."[191] The principle of sustainable development is also acknowledged in the Preamble of the Treaty in the context of promoting economic and social progress for the EU citizens.[192] Thus, sustainability is deeply rooted in the origins of the European integration project, and the SDGs mirror the values and objectives of the EU. This means that the EU and the UN share a common goal of a more sustainable future. They are natural partners in the effort to shape a safer and better future, and the SDGs provide a shared framework for this international partnership. The EU accepts a rules-based international order with the UN at its core, and adopted the SDGs in their own policies.[193] In fact, the EU made a positive and constructive contribution to the development of the 2030 Agenda and it currently plays a leading role in its implementation globally through its external action.[194] The EU engages with UN partner countries and civil society in high-level global forums such as the United Nations High-Level Political Forum on Sustainable Development. The EU is recognised by many as a world champion in creating a social market economy with high social and environmental standards. The EU and its Member States are also the greatest donor of humanitarian aid and development assistance worldwide.[195]

The European Union has committed to implement the SDGs in its own policies and agendas, as well as encourage its Member States to do the same. During its 2014-19 term, the European Commission clarified its approach towards, and ideas about, the implementation of the SDGs in its policy in three major policy documents: a communication titled "Next steps for a sustainable European future. European action for sustainability,"[196] a reflection paper titled "Towards a sustainable Europe by 2030,"[197] and the 2018 publication *The New European Consensus on Development*.[198] On 30 January 2019, the European Commission, led by former President Jean-Claude Juncker, indicated the priority for the European Union's Strategic

191 Article 3 TEU.

192 Preamble to the Treaty on the European Union.

193 European Commission, *The EU and the United Nations – Common Goals for a Sustainable Future*, at <https://ec.europa.eu/info/strategy/international-strategies/sustainable-development-goals/eu-and-united-nations-common-goals-sustainable-future_en>, 1 June 2022.

194 *Ibidem*.

195 European Commission, Directorate-General for Communication, *Towards a Sustainable Europe by 2030: Reflection Paper*, Publications Office, 2019, p. 31.

196 European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Next steps for a sustainable European future. European action for sustainability*, Strasbourg, 22 November 2016, COM(2016) 739 final.

197 European Commission, Directorate-General for Communication, *Towards…*

198 European Commission, *The New European Consensus on Development 'Our World, Our Dignity, Our Future': Joint Statement by the Council and the Representatives of the Governments of the Member States Meeting within the Council, the European Parliament, and the European Commission*, Publications Office, 2018.

Agenda 2019-24 and discussed essential policy foundations to achieve a sustainable Europe by 2030.[199] The priorities identified in moving forward include greening energy, creating a sustainable food system, developing a fully circular economy, and gearing all horizontal policy tools, from education and digitisation to finance and taxation, towards a transition to sustainability. The Commission also acknowledged that achieving this would require collective action at all levels and called upon EU institutions, Member States and their regions and cities, EU citizens, businesses, social partners, and the research communities to all work together.[200] Fundamentally, the Juncker Commission mainstreamed sustainable development priorities across its policies, but did not force Member States to take specific action.

Since Ursula von der Leyen took over as the new President of the European Commission on 1 December 2019, the Commission has launched 245 web-based public consultations on the evaluation of existing policies and the developing of new major initiatives.[201] Moreover, the SDGs were linked to six top priorities in President von der Leyen's Political Guidelines for the European Commission 2019-24 and are illustrated in the figure on the next page.

The fact that the President's political program integrates the SDGs into the proposals, policies, and strategies proves that the EU remains committed to the 2030 Agenda. By doing so, the Commission attempts to focus on delivering concrete actions that will bring the EU and its Member States closer to achieving the SDGs. So far, the Commission has introduced multiple deeply transformative policies such as European Green Deal, the Green Deal Investment Plan, the Just Transition Fund, a new Circular Economy Action Plan, a new Industrial Strategy for Europe, as well as the Annual Sustainable Growth Strategy for 2020 and 2021.[202] In fact, the European Green Deal was designed and introduced expressly as part of the Commission's strategy to contribute to achieving at least 12 of the 17 SDGs.[203] In addition, the European Commission is also determined to improve the presentation and visibility of the progress in the SDGs areas in the Union's budget. All individual Programme Statements to the draft annual budget contain an SDG-specific section to illustrate how each programme contributes to the relevant SDGs. In 2020, the Commission introduced an internal review process in order to verify how each individual programme contributed to the SDGs indicated. Additionally, the European Commission conducted a broad consultative process with Member States, Council Committees, non-governmental and

199 European Commission, Directorate-General for Communication, *Towards...*

200 *Ibidem*, p. 15.

201 European Commission, *Engagement of Civil Society, Private Sector and Other Stakeholders*, at <https://ec.europa.eu/info/strategy/international-strategies/sustainable-development-goals/engagement-civil-society-private-sector-and-other-stakeholders_en>, 1 June 2022.

202 European Commission, *Commission Staff Working Document: Delivering on the UN's Sustainable Development Goals – A Comprehensive Approach*, Brussels, 18 November 2020, SWD(2020) 400 final, p. 1.

203 *Ibidem*, p. 10.

Figure 5: The 17 Sustainable Development Goals integrated in the top European Commission Priorities

Source: European Commission, *EU Holistic Approach to Sustainable Development*, at <https://ec.europa.eu/info/strategy/international-strategies/sustainable-development-goals/eu-holistic-approach-sustainable-development_en#relatedlinks>, 1 June 2022.

international organisations, stakeholders, and academic community. These consultations resulted in the creation of the EU SDGs indicator set, which consists of 102 indicators that are strongly linked to the UN's 17 SDGs and relevant to EU policies. Indicators are particularly valued for their statistical quality in terms of availability, country coverage, and data freshness and quality. They are subject to an annual quality assessment. Eurostat incorporates the EU SDGs indicator set in its regular monitoring reports, which contributes to the debate on the future of a more sustainable Europe. The reports are especially useful in identifying the most pressing sustainability challenges and assessing the overall performance of the EU and its Member States from the standpoint of the SDGs. Besides the European Commission and Eurostat, the European Environment Agency and the European Union Agency for Fundamental Rights play an important role in providing information and knowledge to decision-makers on issues related to the SDGs.

The COVID-19 crisis and the Russian invasion of Ukraine slowed the EU's actions and made the achievement of the SDGs even more challenging both within the EU and globally. The outbreak of the COVID-19 pandemic had a huge impact on all three of the dimensions of sustainability and clearly demonstrated the terrifying force of nature. The EU realised that it has to bounce forward with a strengthened resilience to undergo the green and digital transitions sucessfully.[204] Currently, the European Commission is monitoring progress in achieving the SDGs in order for the EU to stay on the right track long-term and lead the implementation of the UN's 2030 Agenda in the post-COVID world.[205]

4.2. Impact of Collaborative Platforms from the Perspective of the Sustainable Development Goals

The Sustainable Development Goals are the fruit of the collaborative partnership between the United Nations states and stakeholders around the world, who recognise that there is a critical need for introducing an agenda which will lead international organisations, states, businesses, and citizens in shaping a sustainable future. The adoption of the UN's 2030 Agenda has drawn the world's attention to the impact of business activity on the environment and the role of market players in greening the economy. There are no doubts that the achievement of 17 SDGs requires both a strong commitment from and a close partnership with business entities around the world. Collaborative economy platforms are no exception to this. The 17 Sustainable Development Goals with their 169 associated targets set out a path toward economic, social, and technological progress occurring in harmony with nature and based on peaceful, cooperative, and inclusive societies. The activity of collaborative platforms can be linked closely to Goal 12 (Responsible consumption and production); but it also associated with Goals 8 (Decent work and economic growth), 9 (Industry, innovation and infrastructure), 11 (Sustainable cities and communities), and 17 (Partnerships for the goals).

It is a truism to say that sustainable development cannot be achieved without sustainable consumption and production in a world with limited natural resources. In today's fast-paced world, increasing resource utilisation efficiency and promoting sustainable lifestyles are essential to decoupling economic growth from environmental degradation. The SDG12 (12th Sustainable Development Goal) aims to ensure responsible consumption and production patterns around the world by respecting resource constraints, reducing pressures on natural capital

204 *Ibidem.*
205 *Ibidem*, p. 18.

to increase overall well-being, keeping environments clean, supporting effective usage of natural resources, and safeguarding the needs of future generations. In terms of the intersection of environment, economy, and society, the SDG12 assumes that companies support transitioning to green infrastructures and practices, increasing the circularity of materials in the economy, and reducing overall waste generation. It also presumes that everyone is fully informed of ways to live in harmony with nature and will eventually adopt eco-friendly habits.

Monitoring the SDG 12 in the EU is based on the progress achieved in decoupling environmental impacts from economic growth, developing the green economy, reducing waste generation, and improving waste management. The 2021 edition of the Eurostat's monitoring report revealed that the EU has made some progress in decoupling environmental impacts from economic growth by increasing the value added from green products and services and improving its use of circular materials.[206] In contrast, it was observed that waste generation has been growing in the EU and average CO2 emissions from new vehicles are falling too slowly to meet the target.[207] With a view to improve these trends, the EU should aim at replacing conventional cars with zero emission vehicles, increasing the market share of green technologies, reusing and recycling already existing materials, as well as creating a friendly environment for those companies engages in environmental protection.[208] These aims require an effective cooperation with various market players, including the collaborative economy platforms, as their activity has a huge impact on the environment and on shaping consumers' lifestyles and choices.

A member of Vienna City Council, Mr Peter Florianschütz, rightly pointed out own-initiative opinion that the European Union lacks comprehensive studies devoted strictly to measurement of environmental impact of the collaborative economy in the EU.[209] In 2018, the European Commission published a report on the environmental potential of the collaborative economy, concluding that "the way in which the collaborative economy creates environmental (and socio-economic) impacts is complex and that there are different both positive and negative drivers which effect the sustainable development of the EU economy."[210] The authors of the report explained that the lack of data on collaborative consumption and platform business activity prevents the conduct of an in-depth analysis of the environmental impact and called for increased data collection from platforms at

[206] Eurostat, *Sustainable Development in the European Union – Monitoring Report on Progress Towards the SDGs in an EU Context – 2021 Edition*, June 2021, p. 255.

[207] *Ibidem*.

[208] *Ibidem*, pp. 258, 268 and 269.

[209] PES Group, *A European Framework for Regulatory Responses to the Collaborative Economy ECON-VI/048*, at <https://www.pescor.eu/european-framework-regulatory-responses-collaborative-economy>, 1 June 2022. PES Group, the Group of the Party of European Socialists, is a political group in the European Committee of the Regions.

[210] European Commission, European Commission, Directorate-General for Environment, H. Pollitt (et al.), *Environmental Potential…*, p. 1.

both the Member State and EU levels.[211] Despite limited data, the authors presented a few observations on the environmental impact of the collaborative economy and its potential in the future. The observations were based on the available literature, which was scarce at the time, and the Life Cycle Assessment (LCA) analysis. The authors found that collaborative economy transactions were generally less detrimental to the environment in comparison with their traditional alternatives (e.g., spending a night in Airbnb vs staying at a hotel, or driving the same route in a shared car versus two individual cars).[212] The transport sector was identified as the sector with the greatest potential to reduce energy use and emissions, as ride-sharing could lead a decrease in the number of vehicles on the road, as well as the total distance travelled.[213] The authors predicted that the future environmental impact of the collaborative economy in the EU would be small compared to the overall economy, due to the relatively low market shares of this type of economy.[214] Nonetheless, they clarified that the impact could be expected to grow in the future if the collaborative economy expands to cover more sectors. Given the tempo and magnitude of its growth since the report was published, it is likely that the future environmental impact of collaborative platforms will significantly exceed the expectations of the authors. However, in order to verify this hypothesis, the European Commission should order the collection and analysis of sufficient data regarding the business activity of collaborative platforms in Member States.

Needless to say, the environmental impact of collaborative platforms in the European Union and its contribution to reaching 12 SGD depends on consumers behaviours, companies' policies, and the regulatory framework of the collaborative economy sector in Member States. The shift from a traditional ownership-based economy to an economy based on access might lead to decoupling environmental impacts from economic growth and greening the economy by a more efficient use of underutilised goods and by reducing industrial production, pollutants, emissions, and carbon footprints. However, the rebound effects might occur in a form of purchasing new goods in order to participate in collaborative economy (e.g., buying a car to provide ride-sharing services) or shifting from more ecological alternatives to more convenient collaborative economy services (e.g., taking an Uber instead of using public transport).[215] Hence, activities performed in the collaborative economy sector can have both a beneficial and detrimental impact on the environment. In addition, some collaborative platforms are powerful corporations that have financial sources to influence consumers' mindset and choices. They can increase trust in local societies, raise sustainability awareness

[211] *Ibidem*, p. 6.

[212] *Ibidem*, p. 137.

[213] *Ibidem*.

[214] *Ibidem*, p. 136.

[215] A. Menor-Campos (et al.), "Effects of Collaborative Economy: A Reflection," *Social Sciences* 8, Number 5:142, May 2019, p. 9.

on changing consumer habits and practices, and draw a public attention to the consequences of materialist values and choices.[216] In addition, by providing access to commodities and services, collaborative platforms can also improve health and well-being of citizens (e.g., bike-sharing programs in the cities).[217] The collaborative economy certainly has the potential to promote shifts in collective consumption behaviour and sustainable societies; however, this could be hampered by companies' drive to achieve business profits.[218]

Taking these points into consideration, collaborative economy activities might be a double-edge sword in terms of their impact on the environment, society, and economy and therefore collaborative platforms should be closely observed and shaped by legislators towards a more sustainable future. An effective monitoring system, new policy instruments, and better governance models are urgently required to ensure that collaborative platforms contribute to achieving Sustainable Development Goals. The mutual cooperation amongst public authorities, enterprises, and consumers can provide the opportunity to create, reuse, and relocate resources more effectively and achieve complex, long-term goals.

4.3. Future of the Collaborative Economy in the EU

In 2015, the Joint Research Centre (JRC) launched the first scenario-based foresight project examining the potential future development of the collaborative economy in the European Union. The main motivation behind this research was the provision of a timely input in the ongoing development of the European Commission's "A European Agenda for the Collaborative Economy." The JRC team analysed in depth future implications of digital labour market platforms and took into consideration other sectors of the collaborative economy in order to assess the potential of the collaborative economy for public services and social innovation, and the role of collaborative platforms in creating a path towards a sustainable EU in 2030.[219] This project involved approximately 50 experts, stakeholders, and policymakers with a diverse background in the collaborative economy sector, who participated in two workshops held in December 2015 and February 2016.[220] As a result, four different possible future scenarios of the collaborative economy in the EU were developed and published in a separate paper titled "The future of the EU collaborative economy."

[216] H. Heinrichs, "Sharing Economy: A Potential New Pathway to Sustainability", *Gaia – Ecological Perspectives for Science and Society*, Volume 22, Number 4, December 2013, p. 229.

[217] *Ibidem*, p. 2.

[218] Z. Mi, D. Coffman, "The Sharing Economy Promotes Sustainable Societies," *Nature Communications* 10, Article Number 1214, March 2019, p. 1.

[219] European Commission, Joint Research Centre, A. Szczepanikova (et al.), *op. cit.*, p. v and p. 2.

[220] *Ibidem*, p. iiii.

The four scenarios demonstrate what the EU's collaborative economy sector could look like in 2030. The scenarios are thought-provoking illustrations that aim to stir an open debate on the present and future impact of the collaborative economy in the EU. They are intended to represent four divergent directions the EU could possibly take instead of indicating a preferable vision of a desirable future. Furthermore, the scenarios are not mutually exclusive. In fact, the authors acknowledge that the future of collaborative platforms in the EU might be based on combined elements of the different scenarios.[221] Hence, all four scenarios should be treated collectively as intellectual tools that help to reflect on the impact of collaborative platforms on the EU market rather than precise and exclusive predictions of the future state of the collaborative economy. In order to make scenarios effective, they were designed to meet the following four criteria:

– *plausibility*, i.e., remaining within the limits of what may conceivably occur;
– *consistency*, i.e., being built on nonconflicting elements and factors which will not threaten the creditability of the scenarios;
– *diversity*, i.e., remaining structurally diversified to cover distinct directions of plausible future developments;
– *utility*, i.e., providing relevant and valuable insights into the future which will facilitate decision-making process.[222]

The process of developing the scenarios began with identifying the key drivers of change that are critical to the future development of the collaborative economy of the EU. European experts, stakeholders, and policymakers collectively decided that critical drivers include social cohesion, social values, EU demographics, development of information and communication technologies (ICTs), economic development, governance, and environmental pressures. Three key drivers, i.e., demography, development of ICTs, and environmental pressures, are in line with megatrends that affect all scenarios in a similar way.[223] In contrast, the other four drivers are impacted by these trends and make differences between scenarios.[224] Subsequently, all drivers were incorporated into each scenario and presented in the table on the next page.

The first scenario presents a future in which growing Euroscepticism results in moving the decision-making process from the EU level to the national and regional levels. Due to the EU divergence and the revitalisation of local political life, the regulatory framework becomes more fragmented and volatile across the EU. It hampers harmonisation of policies and regulations in Member States and makes it impossible to successfully tackle severe cross-country problems such as climate change and global warming. On the other hand, it also leads to the empowerment of civil society and the awakening of the regional groups which come up with many local initiatives. Therefore, this scenario is marked with a strong sense of

[221] *Ibidem*, p. 3.
[222] *Ibidem*.
[223] *Ibidem*, p. 10.
[224] *Ibidem*.

Table 2: An overview of the characteristics of the drivers in four scenarios

Driver	Scenario 1	Scenario 2	Scenario 3	Scenario 4
Social cohesion	Strong social cohesion	Strong social cohesion	Individualistic society	Individualistic society
Social values	Openness, transparency and fairness	Environmental sustainability, responsibility and solidarity	Individual responsibility, technological progress	Individual responsibility and self-reliance
Economic development	Moderate growth	Redirection towards a circular economy, beyond GDP	Low growth	Volatile economy, overall stagnation
Governance	Governance distributed between EU level and regional level, direct democracy	Strong EU governance with more EU competences	Lean governance at all levels	Weak governance at all levels
Development in information and communication technologies	Progress in robotics, automation and artificial intelligence			
Environmental pressures	Climate change and depletion of natural resources continue			
Demography	Size of EU-28 population remains stable, population is ageing			

Source: European Commission, Joint Research Centre, A. Szczepanikova (et al.), *The Future of the European Collaborative Economy*, Publications Office, 2016, p. 10.

social responsibility and a great community spirit, which results in an increased share of community-based approaches. In this vision, the collaborative economy is predominantly occupied by community-owned platforms which are used by citizens and organisations to launch bottom-up initiatives. A pervasive self-organising collaborative ethos and strong drive for supporting the local economy go hand in hand with the sustainable behaviours promoted by collaborative platforms. A vast majority of platforms have roots in non-profit sharing/renting, data gathering, or crowdsourcing. The major fundaments of a digitally networked society are trust, transparency, and fairness. Companies offer flexible, on-demand work, which is scrutinised under employment and social protection rules. Additionally, respectable companies provide basic training and insurance, which is appealing also for non-EU citizens who can perform outsourced work online.[225] It raises serious is-

[225] *Ibidem*, pp. 12-13.

sues in terms of competition in the EU labour market and price drive. Overall, the first scenario can be summed up by the "Think global, act local" motto.

The second scenario predicts that public authorities will aim for the optimum use of resources and invest in labour and expertise.[226] Similar to the previous scenario, this one is also based on a strong community spirit, but it differs in placement of the decision-making process, which is located at the EU level. The second scenario assumes that, in the face of ongoing geopolitical instability, failures in mitigating climate change, and chronic unemployment in some Member States, EU citizens will place their trust in the European Union, which will be perceived as the self-sufficient and effective actor for leading the change towards a more sustainable future.[227] Some currently national competence will be moved to the European level, which will help to reorient economy and harmonise fiscal framework within the EU. This can be achieved by moving towards a circular economy and introducing a dynamic green tax system across the EU. In addition, production and consumption will become more local, which means that the EU will be less reliant on international markets for raw materials and hydrocarbons.[228] In addition, significant research and development, and public investments are made into targeting renewable resources, recycling, mass customisation, and short material loops.[229] Their main objective to move towards minimising resource use and optimising re-use.[230]

The third scenario predicts that the future EU society will be individualistic, strongly polarised and divided into two main groups: those who own goods and those who can gain access to them only accasionally.[231] A strengthened value of ownership might be a result of the scarcity of resources, increasing inequality, and limited social security provisions. In the case where demand cannot be fulfilled by public service, collaborative platforms would be likely to merge with traditional providers in order to meet social needs.[232] Consequently, new forms of collaborative platforms which complement public service would emerge. The third scenario posits that a business-friendly environment and EU-level governance would set the general regulatory and policy framework leading to modernisation, privatisation and liberalisation of labour law.[233] The governance within the EU would be placed in the hands of proponents of a "small government" approach who push towards fostering green and digital innovation.[234]

[226] *Ibidem*, p. 15.
[227] *Ibidem*, pp. 15-16.
[228] *Ibidem*, p. 16.
[229] *Ibidem*.
[230] *Ibidem*.
[231] *Ibidem*, p. 19.
[232] *Ibidem*, p. 20.
[233] *Ibidem*, pp. 18-19.
[234] *Ibidem*, p. 18.

The final scenario is founded on the idea that weak governance at the EU and national levels together with corporate power and economic stagnation will push citizens to search for alternative ways to ensure their livelihood.[235] Growing Euroscepticism and political fragmentation will undermine the EU's position in the international field and hinder implementation of long-term policies, especially in respect to the environment and social security.[236] In this vision, large multinational corporations will dominate the collaborative economy, whereas non-profit platforms will be limited to the informal local urban economy.[237] The labour market will be fully liberalised, which means flexible working options on the one hand, and maximal outsourcing to low-cost workers in developing countries on the other. This already highly competitive environment will be additionally fuelled by progressive automatisation and digitalisation. Economic pressures will deepen the distrust and hostility between citizens, which will eventually evolved into social unrest and political instability. Weak political governance may be exploited by wealthy and powerful groups of individuals that can build political and economic capital on this difficult situation.

All the four scenarios have their own distinctive characteristics, benefits and challenges. They present varied versions of the future state of the collaborative economy sector in the EU and serve as indications of how current choices and tendencies might affect the future. Furthermore, the process of developing the four scenarios of collaborative platforms in the EU in 2030 has revealed the three most challenging areas that require a special attention in the nearest future. The challenges which should be urgently addressed by the EU legislator include social protections and workers' rights in platform-mediated labour, data privacy and liability, and teaching competence and skills required in the future collaborative economy sector.[238] Hence, the scenarios are extremely valuable tools for policymakers and thought-provoking visions of the future for stakeholders and citizens who participate in the collaborative economy. Not only do scenarios present versatile versions of the future state of collaborative platforms in the EU, but they also indicate which political trends and factors might play a significant role in shaping the collaborative economy sector. The trust in the competence of the EU to adopt and enforce effective and sustainable practices, as opposed to growing Euroscepticism tendencies and political fragmentation, is definitely one of them. As Orly Lobel rightly observed, addressing complex questions about the regulation of the collaborative economy platforms in the future will largely depend on the social policy goals.[239] Hence, the progress that the EU is making towards

[235] *Ibidem*, p. 21.
[236] *Ibidem*, pp. 21-22.
[237] *Ibidem*, p. 23.
[238] *Ibidem*, pp. iii-iv.
[239] O. Lobel, *op. cit.*, p. 77.

achieving the 17 SDGs might increase the confidence of both the EU citizens and stakeholders in the EU's competence to regulate the collaborative economy sector in a fair, effective, and sustainable manner.

4.4. Recommendations for the Monitoring the Collaborative Economy in the EU

The main objective of this research is to develop the best hypothetical model for the regulation of the collaborative economy in the European Union from the standpoint of sustainable development. This means that recommended solutions should aim to mitigate the disruptive socio-environmental impacts of collaborative platforms without undermining their economic performance and potential for future development. Keeping this in mind, the recommendations should include not only feasible *de lege ferenda* postulates, but also practical suggestions for actions which will allow the EU legislator to effectively monitor current and analyse the future state of development of the collaborative economy sector in the EU. Without the latter, it would be simply impossible to introduce legal provisions that would remain accurate and effective in the long term, especially in such an innovative and ever-evolving sector. The collaborative economy is characterised by a great variety of business activities which are constantly being developed to adapt quickly to consumer demand and dynamic market shifts. This was particularly visible during the first year of the COVID-19 pandemic, when the vast majority of companies had to adjust quickly their business models to pandemic-related restrictions and introduce additional health and safety standards. As concluded in section 3.3 (The Impact of the COVID-19 Pandemic on Collaborative Platforms), although the pandemic did pose a serious threat to the survival of the collaborative economy due to the introduction of strict regulations on social distancing, hygiene, and safety, many collaborative platforms successfully transformed their business models by adapting to governmental guidelines and health recommendations. This clearly demonstrates the high adaptability and innovativeness of collaborative platforms. Therefore, due to its evolving nature, the collaborative economy sector requires regular examination and proper monitoring policies. The three following recommendations can contribute to an effective monitoring of the collaborative economy sector in the EU.

First, the European Commission should commission a new study with the objective of examining the current business and regulatory environment affecting the collaborative economy in all Member States. This study should be based on the Collaborative Economy Index, which was developed in 2018 as a standardised and thorough tool to examine the state of the collaborative economy in all Member States. As discussed in section 3.2 (Diverse Regulatory Frameworks towards Collaborative Platforms in Member States), the CEI provides a valuable and comprehensive overview of a great diversity of national regulations of the collaborative economy sector within the EU. So far, the CEI was used only once, in the "Study to monitor the business and regulatory environment affecting the collaborative economy in the EU" in 2018. This study has never been repeated, even though the CEI's indicator design and method of calculation were evaluated by experts as appropriate for subsequent replication.[240] What is more, the CEI's indicator list can be extended with additional questions if necessary. Hence, the CEI can effectively keep up with the development pace of the collaborative economy and contribute to the evaluation of the effectiveness of new policies and regulation introduced by local authorities and national governments. It would be advisable to discuss the CEI with renowned experts from different Member States in order to gain their insights into the need to change or update the structure of indicator set. The European Commission should order a research examining how the CEI has changed in Member States during the last three years and whether national politicies which were introduced by Member States within this period significantly contributed to the improvement of their position in the overall EU ranking. This study can be repeated yearly or biennially, and presented in the Single Market Scoreboard with arrows indicating the changes in performance of the Member States. Additionally, the European Commission could also invite the United Kingdom to participate in the EU study or ask British government to organise a similar study based on the CEI in order to compare the results and identify the most effective policies. Although the UK withdrew from the EU structure in 2020, it would be still beneficial for everyone to compare how new post-Brexit business policies and regulations impact the development of the collaborative economy in the UK.

Secondly in addition to organising subsequent editions of the study on how the business and regulatory environment impacts the collaborative economy in all Member States, the European Commission should also launch research into the environmental impact of the collaborative economy in the EU. In the last few years, researchers who examined collaborative economy in Europe were struggling with limited data and scarce literature on the subject of collaborative consumption and platform business activity and called for increased data collection from platforms at both the Member State and EU levels.[241] In 2019, the European Committee of the Regions rightly observed that "access to data is a crucial issue for public authorities, in particular at the local and regional level; ensuring proper enforcement of applicable local rules and safeguarding supervisory mechanisms is impossible without access to the relevant data from platforms operating in a given territory."[242] The Committee asked the European Commission to produce studies on the possible environmental impact of the collaborative economy by the

[240] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, M. Naumanen (et al.), *op. cit.*, p. 71.

[241] European Commission, European Commission, Directorate-General for Environment, H. Pollitt (et al.), *Environmental Potential…*, p. 3.

[242] PES Group, *op. cit.*

second half of 2020; however, no publication on this issue has been released so far. With the objective of moving towards a sustainable Europe in 2030, it is critical to urgently examine the environmental impact of the collaborative economy in the EU and share the collected data with scholars and stakeholders who also work to develop solutions to reduce the environmental costs of business activity in Europe. Interestingly, even the European Commissioner for Economy himself, Paolo Gentiloni, stated that "[k]nowing where we stand, identifying the most pressing sustainability challenges and critically examining our performance is essential, if we are to ensure a sustainable Europe in a sustainable world."[243] It is high time that the European Commission responded to the calls for increased data collection on business activity of collaborative platforms in Member States and launched a research to measure their environmental impact within the EU.

Lastly, learning from the British approach towards collaborative platforms, it is highly recommended to increase cooperation between authorities and representatives of the collaborative economy sector. As explained in section 3.5 (Evolution of the United Kingdom's Approach towards Collaborative Platforms), Sharing Economy UK (the British trade body which consists of representatives from the collaborative economy sector) works closely with the British government to examine the economic, social, and labour impact of the business activity and to develop effective policies for the collaborative economy. A similar representative trade body should be created on the EU level in order to cooperate with the European Commission in developing a new framework for the collaborative economy sector. This body could contribute by representing the interests of collaborative platforms, sharing their opinion on proposed policies and regulations, and supporting the implementation of the SDGs. The EU's trade representative body could take a similar form to the British SEUK or the UN's Partnership Platform[244] (which is a global registry of voluntary commitments and multi-stakeholder partnerships made by stakeholders to support of the implementation of the SDGs). The achievement of SDGs in the EU, and especially moving toward more sustainable market, is simply impossible without a functional cooperation of international and national authorities, scholars, and stakeholders.

In conclusion, it is recommended that the European Commission:

1) carries out a new study, using the Collaborative Economy Index, with an objective to examine the current business and regulatory environment affecting the collaborative economy in all Member States and then repeat this study yearly or biennially;
2) launches research that will investigate environmental impact of the collaborative economy in the EU;

[243] Eurostat, *op. cit.*, p. 4.

[244] See more information on UN's The Partnership Platform at <https://sdgs.un.org/partnerships>, 1 June 2022.

3) creates a space for the cooperation of EU authorities, Member States representatives, scholars, and stakeholders with the objective of establishing the best policies and practices with respect to the collaborative economy.

4.5. Recommendations for the Regulation of the Collaborative Economy in the EU

In order to comprehensively address the main research question, which is "How should the collaborative economy sector be regulated in the European Union from the standpoint of the sustainable development?," and develop the most effective hypothetical model for such regulation, several minor questions must be addressed in advance. These include the dilemmas regarding the type of regulation (lack of regulation, self-regulation, top-down or collaborative regulations), the timing of regulation (*ex ante* or *ex post*), the novelty of applicable regulations (expanding existing rules or creating new regulations), the scope of regulation (horizontal crosscutting rules or sector-specific provisions), the authority to impose regulation (regional and national or EU legislator), and what type of legal instruments (regulations, directives or soft law), if any, should be adopted on the EU level. Let's address them one by one.

The first question that pops into mind is "To regulate or to not regulate?" The main arguments raised against regulating the collaborative economy are grounded in the fact that this sector is fairly new, innovative, and dynamically evolving. This means that premature or inadequate regulation might hamper the development rate of the collaborative economy or make it unattractive to consumers. On the other hand, in many sectors (especially accommodation and transportation), business models of collaborative platforms can be described as disruptive and predatory. Regulations which were introduced for traditional business models are frequently inapplicable or misadjusted to a diverse and complex collaborative economy sector. Hence, on many occasions, collaborative platforms take advantage of the lack of regulation or deliberately dodge the law in order to maximise profit. Additionally, as discussed in section 2.4 (Regulatory Challenges of the Collaborative Economy), platform activity also creates regulatory uncertainty and challenges in various fields of law, including tax law, employment law, privacy law, consumer protection, antidiscrimination law, competition law, and many others. Overall, an unregulated collaborative economy is harmful to consumers, market competitors, the state treasury, and the environment. Therefore, the majoritarian view in the legal doctrine rightly advocates for some kind of regulation of the collaborative economy.[245] This is completely understandable and reasonable given how many years the collaborative economy sector remained unregulated or

[245] V. Hatzopoulos, *op. cit.*, p. 223.

scarcely regulated. Collaborative platforms had a few years to grow and develop without much legislator intervention and, as the COVID-19 pandemic demonstrated, they are fully capable of quickly transforming their business models and adapt to new regulations if needed. At the very beginning of the discussion on collaborative economy in Europe, the European Commission decided to issue a non-binding agenda with general guidelines for Member States, which would enable the sector to develop and give the EU time to monitor its progress and examine whether regulatory intervention is necessary. Given the early stage of development of the collaborative economy in 2016, opting for a soft law agenda instead of applying hard law regulations was quite reasonable. However, now, five years since the Commission released "A European Agenda for the Collaborative Economy", it is critically necessary to introduce adequate regulation to maintain a fair, undisruptive, and intact European market.

As the lack of regulation is not an option anymore, the dilemma remains between choosing self-regulation by collaborative platforms (bottom-up) or regulations imposed by public authorities (top-down). The truth is that, within the last few years, platforms have failed to introduce sufficient policies to solve economic, legal, and environmental problems their business activity causes. Moreover, many companies have not made any attempts to make their business models more sustainable, and they deliberately take advantage of the ongoing state of legal uncertainty. Even though they introduce multiple self-regulatory mechanisms such as reputation rating systems and profiling, national courts and local authorities still have to resolve a number of issues, including liability, non-discrimination, and data protection, let alone numerous problems regarding tax evasion, labour rights, and unfair competition. Thus, to make self-regulation more transparent and effective, it should be evaluated and oversaw by public authorities that complement it when necessary with top-down regulation. This choice is also advisable from the perspective of the whole market in which all sectors should be regulated in a coherent and integrated manner. Therefore, given that bottom-up regulation by collaborative platforms frequently turns out to be insufficient to mitigate the distributions and externalities of the collaborative economy, and entirely top-down regulation by public authorities might not be well adjusted to dynamically evolving and technology driven sectors, the most optimal solution for regulating the collaborative economy would be collaborative regulation developed by both platforms and authorities which work together to reach the most effective solutions. R. Dyal-Chand rightly recommends that intermediary institutions, which would collectively represent the interests of microentrepreneurs, should also actively participate in creating the legal framework of their business environment.[246] Similarly, A. Armitage, A.K. Cordova, and R. Siegel suggest that in order to achieve

[246] R. Dyal-Chand, "Regulating Sharing: The Sharing Economy as an Alternative Capitalist Systems", *Tulane Law Review*, Volume 90, Number 2, March 2016, pp. 288-289.

solution-focused provisions, a team engaged in the law-making process should remain interdisciplinary and think collaboratively.[247] Collaborative regulation approach can already be observed in some European metropolises such as London and Paris, where local authorities negotiated conditions and quantitative restrictions for Uber and Airbnb's business activities. Such productive cooperation and collaborative law-making process should also be introduced at national and EU levels. This legislator recommendation goes hand in hand with a proposal to create a space for the cooperation of EU authorities, Member States representatives, scholars, and stakeholders.

The next question which needs to be addressed regards the proper timing of regulation, and more specifically, whether the regulation should be introduced *ex ante* or *ex post*. Generally, *ex ante* regulations are introduced with the objective of identifying problems beforehand and shaping stakeholder behaviour and responses through regulatory intervention.[248] In other words, *ex ante* provisions attempt to regulate a market sector before any market failure has even occurred. The greatest drawbacks of *ex ante* regulation are the lack of sufficient information to apply certain provisions, potential bias harboured by the regulators, and a necessity to re-evaluate provisions to keep them up with market developments.[249] Hence, they are generally poorly fitted to new and dynamically evolving sectors, such as the collaborative economy. In contrast, *ex post* regulations, which are grounded on available information, are introduced to address specific negative externalities and disruptions as they arise.[250] Instead of ordering companies how to operate, *ex post* regulations inform them what not to do because of the socio-environmental costs of such activities. Currently, *ex post* regulations prevail in most modern open economies.[251] Most platforms and several authors put forward the view that *ex post* regulation should be applied to the collaborative economy.[252] This is acceptable with the exception of those business activities that put peoples' lives and health at stake, and therefore, should be regulated *ex ante*.

While developing the appropriate regulation of the collaborative economy, the legislator has to decide whether they should expand already existing rules or create new regulations. Characteristic for the collaborative economy sector are innovation, diversity, and complexity. Businesses in the collaborative economy make great use of new technological developments (such as algorithms, big data, search and matching mechanisms) and have the potential to incorporate future

[247] A. Armitage, A. Cordova, R. Siegel, "Design-Thinking: The Answer to the Impasse between Innovation and Regulation", *UC Hastings Research Paper*, Number 250, August 2017, p. 52.

[248] H. Lee-Makiyama, B. Narayanan, "Economic Costs of Ex ante Regulations," *ECIPE Occasional Paper* 07/2020, October 2020, at <https://ecipe.org/publications/ex-ante/>, 1 June 2022, p. 3.

[249] *Ibidem*.

[250] *Ibidem*, p. 2.

[251] *Ibidem*.

[252] V. Hatzopoulos, *op. cit.*, p. 217.

innovations into their models. Thus, traditional regulations frequently turn out to be inappropriate, misadjusted, or ineffective with respect to the collaborative economy. This is also why the collaborative economy raises so many challenges in various areas of law. For example, it is disputable whether service providers should be classified as employees or independent contractors, and hence whether they are entitled to standard employment protection and rights such as the right to minimum wage and limited working hours. Similarly, in the field of insurance, the collaborative economy is located somewhere between personal and commercial activity, and in the field of non-discrimination law, its in-between public and private sphere. Therefore, a traditional approach is not sufficient to regulate the collaborative economy with its inherent diverse attributes. Nevertheless, the legislator can build new regulations on the already existing rules and tailor them to the properties of business activity of collaborative platforms.

The next dilemma which the legislator has to face refers to a choice choose between horizontal cross-cutting rules and sector-specific provisions. In other words, the legislator has to answer the question of whether a one-size-fits-all approach can be applied to the collaborative economy, or whether multiple sector-tailored provisions should be established on the basis of a certain level of frequency or profitability of performed activities. As explained above, due to the wide array of very diversified activities in the collaborative economy, the introduced regulations have to be re-calibrated to the scale of these activities.[253] This is necessary to ensure that the collaborative economy will continue to produce economic opportunities and socially beneficial activities, but at the same time its negative cumulative impacts are mitigated.[254] P. Nooren *et al.* rightly suggested that before the development of new regulations for online platforms, policymakers should first consider the underlying characteristics of platforms and business models rather than trying to handle digital platforms as a single category.[255] Specifically, legislators must consider a distinction between "pure" sharing and more profit-oriented activities which are more likely to cause economic, social, and environmental damage. A clear distinction between peer and professional activity is essential to establish adequate market access requirements, as well as fiscal and legal responsibilities. Even though sector-specific provisions should prevail, there is a space for more general and plain horizontal provisions. For instance, such cross-cutting provisions can be applied to the issue of the liability of platforms regardless of the type of their business activity.

The final question, which is particularly important from the perspective of the European Union, refers to the level of regulation. Should regulation on the collaborative economy be introduced at a local, national, or EU level? Due to the fact

253 K. Zale, *op. cit.*, p. 50.

254 *Ibidem.*

255 P. Nooren (et al.), "Should We Regulate Digital Platforms? A New Framework for Evaluating Policy Options," *Policy & Internet*, Volume 10, Issue 3, September 2018.

that many of the services offered by collaborative platforms are performed at the local level (i.e. home-sharing, transportation, dog-sitting), some people believe that local authorities should be responsible for effective regulation of the collaborative economy sector. This is, however, extremely difficult to achieve because many platforms are, in fact, powerful, global corporations with a strong lobby, considerable resources to sway public opinion, and obtain an unfair advantage in litigation.[256] The vast majority of platforms adopt the same business model for all countries in which they operate. Moreover, in some cases, the same service can be provided in two or more Member States. For instance, BlaBlaCar is a French-based company which offers carpooling rides between countries. Hence, given the international scale of the business activity of collaborative platforms and their powerful position, a more centralised regulation seems more reasonable. Currently, the EU lacks a common regulatory framework for the collaborative economy, which results in a diversity of regulation between and within Member States. Not only does the fragmentation of regulation within the Single Market hamper the harmonious development of the collaborative economy in Europe, but it also leads to legal complexity and additional administrative and fiscal burden at the local and national level. Consequently, national courts, as well as the Court of Justice of the European Union, must resolve a number of issues regarding the collaborative economy on a case-by-case basis. These include a wide range of challenges in various fields of law, including tax law, labour law, antidiscrimination law, private law, and consumer protection. Therefore, given the current fragmentation of the regulation of the collaborative economy within the EU, legislative burden on all levels of courts, limited power of local authorities, and the high-perch position of collaborative platforms, the Author believes that the EU should provide a basic legislator framework for the collaborative economy which would be obligatorily applied in all Member States.

While introducing a legislator framework, the EU legislator has to decide on the best legal instrument for new regulation. The introduction of the Agenda in 2016 and the following fragmentation of the regulation between Member States leave no doubts that soft law is not sufficient to regulate the collaborative economy. Out of the three available hard law legal instruments, i.e., regulations, directives, and decisions, the EU legislator should opt for a directive. This is because a directive does two things; first, it is a general act binding to the result to be achieved, and second, it gives Member States the option to determine how to achieve the result within a given timeframe.[257] Thanks to such discretion, national authorities are free to choose the forms and methods that are best suited to incorporate new EU provisions into their national law system. They are also obliged to

[256] V. Hatzopoulos, *op. cit.*, p. 219.

[257] Article 288 TFEU. Source: Treaty of the Functioning of the European Union, OJ C 326, 26 October 2012.

communicate these measures to the European Commission. This might be particularly useful with respect to the collaborative economy, which has different sizes and stages of development in various Member States. Furthermore, given the wide variety and breadth of collaborative activities and differences in national markets, Member States face different challenges and problems regarding the collaborative economy sector. This is also why the EU legislator should consult proposed solutions with national and local governments, and leave them some discretion in addressing negative externalities and dislocations, which might not be fully tackled by a general legislation. Needless to say, the EU legislator framework towards the collaborative economy should remain in line with principles of conferral, subsidiarity, and proportionality. In order to develop an effective model for the collaborative economy in the EU, policies and regulation towards the collaborative economy should be coordinated at all different levels of the government in a coherent manner.

4.6. Summary

The concept of sustainability is based on three dimensions: environmental, societal, and economic, which are often referred to as the 3P's of sustainable development: planet, people, and profit. Given that sustainable development constitutes an overarching paradigm of the United Nations and a core principle of the European Union, both organisations consider themselves neutral partners with a common goal of a more sustainable future based on balanced economic growth, price stability, prosperity, secured natural resources, social inclusion, and equality. The 2030 Agenda for Sustainable Development, adopted by all UN's Member States in 2015 and supported by the EU, established 17 Sustainable Development Goals with 169 associated targets. The SDGs provide a globally legitimised benchmark with clear metrics for states towards a sustainable future. They cover a wide range of issues, including complex ones such as quality education, affordable energy, clean water and sanitation, gender equality, good health and well-being, economic growth, climate action, social justice, and responsible consumption and production. Not only has the EU decided to integrate 17 SDGs into their own internal and external politics, but it also encourages its Member States, as well as other countries, to do the same. Currently, with its integrated social market and high socio-environmental standards, the EU aspires to become the world leader in implementing SDGs.

The adoption of the SDGs refocused world attention to the impact of business activity on the environment and reshaped the role of market players in greening the economy. The sector of the collaborative economy is particularly important from the perspective of sustainability because of its great potential to ensure responsible consumption and production patterns, increase in the circularity of materials in the economy, and move towards green infrastructures and environmentally friendly practices. Thanks to collaborative platforms, assets that are currently underused can be better used and serve greater number of people. A footprints more efficient use of goods can reduce industrial production and carbon footprints and have a positive impact on shaping consumers lifestyle and choices. The assessment of business activity of collaborative platforms is very difficult due the lack of sufficient data on the environmental impact of the collaborative economy in Member States.

In 2015, the Joint Research Centre examined the potential of the collaborative economy for public services and social innovation and shed light on the role of collaborative platforms in creating a path towards a sustainable EU in the future. The results of the JRC analysis were presented in a form of four possible scenarios, which demonstrate how the EU's collaborative economy sector could look like in 2030. This thought-provoking, scenario-based foresight project stirs an open debate on the present and future impact of the collaborative economy in the EU and points out challenges which should be urgently addressed by the EU legislator. The problems indicated by the JRC include social protection and the rights of workers in platform-mediated labour, data privacy and liability, and digital skills which will be required in the future. These issues correspond to the deficiencies and drawbacks of the collaborative economy noted in the previous chapters. In order to address these problems as well as develop the best hypothetical model for the regulation of the collaborative economy in the European Union from the standpoint of sustainable development, the Author presents practical suggestions which will allow the EU legislator to effectively monitor current and future state of development of the collaborative economy in Member States, as well as practical *de lege ferenda* postulates for regulation of the collaborative economy within the EU.

The three main practical suggestions for monitoring the collaborative economy include carrying out a second edition of the study on the business and regulatory environment affecting the collaborative economy in Member States (based on the CEI), which shall be later repeated yearly or biennially; launching brand new research which investigates the environmental impact of the collaborative economy in the EU; and creating a space for a strong cooperation of EU authorities, Member States representatives, scholars, and stakeholders. The collected data and fruitful consultations will significantly contribute to developing the most efficient policies towards the collaborative economy sector.

With respect to *de lege lata* analysis and *de lege* postulates, the Author opts for collaborative regulation, over top-down or bottom-up regulation, and *ex post* over *ex ante* legal framework (with the exception of situations in which people's lives and health are at stake), and sector-specific provisions over horizontal rules. The most optimal model for regulation for the collaborative economy in the EU should be centralised at the EU level and built on already existing solutions, which were effectively implemented in some Member States. The most appropriate EU legal instrument to introduce regulation for the collaborative economy sector is a directive, due to its general character on the one hand (it is binding as to the result to all Member States to which it is addressed) and a discretion in terms of measures and forms to achieve results on the other.

With a view to make the regulatory model the most efficient from the perspective of sustainable development, the EU legislator should create standards to mitigate the risk of greenwashing and promote business models that aim to ensure responsible consumption and production patterns by reducing overall emissions and waste, support efficient use of natural resources, and offer greener transport options. The EU legislator framework regarding the collaborative economy should be formed in consultation with Member States and local authorities, and remain in line with principles of conferral, subsidiarity, and proportionality.

5. Concluding Remarks

The rise of the collaborative economy is viewed as one of the most significant global socio-economic developments in the past decade.[258] From a simple idea based on renting, lending, reselling, or swapping underutilised resources (e.g., tools, space, time, and skills), it developed into a complex, novel, and innovative economic sector which has completely revolutionised traditional markets and shifted consumer preferences and lifestyles. During the last two decades, collaborative platforms have moved from niche to mainstream. Today's collaborative economy consists of a wide array of business models which vary significantly in their ideological roots, values, technological resources, size, and legal forms. Collaborative platforms range from local initiatives genuinely dedicated to altruistic goals to global profit-driven corporations which need to satisfy investor and shareholder interests. This multifaceted socio-economic phenomenon has become a widely disputed subject of fierce debates in both media and academic discourses. While supporters of the collaborative economy firmly believe that it is a promising opportunity for individual activism, sustainable development and environmental progress, opponents call it a misleading mystification of an unruly and unjustly idealised "low cost" access economy. It is highly disputable whether collaborative platforms should be seen as profit-driven corporations, which hide their disruptive business model under greenwashing slogans, or rather as pioneers in transforming commercial business models into sustainable and environmentally friendly companies. Even the law-makers cannot agree on a univocal approach towards this innovative and growing, yet disruptive, sector of the economy. As a result, a wide range of legislative approaches taken by national and local authorities toward the collaborative economy sector can be observed around the world. This is particularly troublesome for the European Union, which lacks a common regulatory framework for the collaborative economy and has to face a fragmentation of regulation introduced by its Member States within the Single Market. Thus, the main objective of this research is to develop the best hypothetical model to regulate the collaborative economy in the EU. This will help

[258] K. Frenken, "Sustainability Perspectives on the Sharing Economy," *Environmental Innovation and Societal Transitions*, Volume 23, May 2017, p. 2.

to mitigate the disruptive socio-environmental impacts of collaborative platforms in Member States as well as address the most pressing regulatory issues which are currently noticeable in numerous fields of law.

In order to address this complex and multifaceted phenomenon, this paper first deals with the terminological chaos and inconsistencies in describing the collaborative economy. Due to the plurality and diversity of business models that fall within the collaborative economy and their constant evolution and overlapping scope of activity, a multiplicity of terms are interchangeably used to describe this phenomenon (e.g., sharing economy, platform economy, digital economy, circular economy, gig economy, and on demand economy). This research clarifies this ambiguity by providing an in-depth semantic analysis of these terms based on the scientific literature and publications of the European Union. The Author opts for using the term "collaborative economy," which covers both commercial and non-commercial business models, whilst carrying few ideological assumptions (in contrast to the term "sharing economy," which assumes that exchange of goods and services is altruistic), and is applied in the overwhelming majority of the EU publications. Besides explaining a legal definition of the collaborative economy and highlighting why other terms are too narrow or broad to grasp the concept of the collaborative economy, the characteristics of collaborative platforms are examined. They include a shift from ownership to accessibility, operation on big data, reliance on the concept of trust, and benefiting from the networking effects. Additionally, the Author presents a classification of collaborative platforms which is the most relevant from the perspective of sustainable development, and which demonstrates how the different values behind various platforms make a difference in terms of their socio-economic impact. While some collaborative platforms ("Commoners" and "Mission-driven Platforms") place social and environmental promises at the centre stage of their activity, others ("Shared Infrastructure Providers" and "Matchmakers") are purely business-oriented companies that aim to maximise profits. This classification sheds light on the complex diversity of collaborative platforms and their heterogeneous approaches towards the ecosystem in which they operate. It also helps to demonstrate why, from the perspective of sustainable development, it is beneficial to support not only those initiatives that are clearly focused on distributing value in the ecosystem, but also those platforms which, despite being primarily profit oriented, have great potential to promote environmentally friendly activities through commercial business models.

A considerable part of this research is devoted to analysing the disruptions that collaborative platforms create on traditional markets (especially in the accommodation and transportation sectors) and the following regulatory challenges that law-makers on all levels (i.e., local, national, and international) have to face in multiple fields of law. Conceptualising these problems is essential to understanding how difficult it is for legislators to fill the current regulatory shortages without putting an end to the innovation of the collaborative economy by doing so. This is particularly delicate because, in many cases, the lack of or a very limited scope of regulation constitutes the main cause for rapid development and attractiveness of collaborative economy business models. Thus, legislators must balance the contradictory interests and needs of collaborative platforms on the one hand, and those of their traditional market competitors, consumers, and workers on the other hand.

The most pressing legal problem regarding the collaborative economy is the uncertain status of collaborative platform workers, who tend to be classified by platforms as independent contractors rather than employees. Consequently, workers are deprived of standard employment protection and rights, including the right to a minimum wage and limited working hours, collective bargaining, family and medical leave, workers compensation, safe and healthy working environments, retirement savings plans, and unemployment insurance. On the other hand, if they were considered employees, they would obtain employment protection and social rights, but they would also be limited by maximum working hours and burdened with fiscal obligations. The legislator faces the difficult challenge of classifying an extremely diverse group of workers, who range from people who rent their resources sporadically to individuals that make a living by daily ride-sharing or renting their commercial properties. Other problematic issues in labour law refer to data-based supervision of workers, the impact of user rating systems on workers' behaviour, and the common practice of avoiding classification by arbitration agreements containing class action waivers.

The broad diversification of business activities in the collaborative economy constitutes a real challenge for tax authorities, too. When imposing tax obligations, they must make a distinction between those who occasionally provide access to their resources and those who professionally provide services through the platforms. In addition, law makers and enforcement authorities have to keep up with ever-evolving collaborative economy business models and cannot rely on simple regulations based on a one-size-fits-all approach. A universal tax policy cannot cover all activities in a fair manner. This challenge might be tackled by setting thresholds of activity frequency or revenue. Moreover, in order to reduce the fiscal burden on public authorities, some financial responsibilities can potentially be delegated to collaborative platforms. Workers should also be educated about their tax obligations, for example, through dedicated online webpages such as the "Gig Economy Tax Center" website, which was launched by the American Internal Revenue Service. Another pressing tax issue, especially in federal countries and within the European Union, is tax avoidance. Solving this problem is not easy, as effective tax collection from powerful global corporations requires international efforts.

The vast majority of problems in antidiscrimination law arise from the fact that the collaborative economy is located somewhere between the private and public spheres. For instance, ride-sharing applications, such as Uber, Bolt, and

Lyft, have become one of the most popular means of transport in big cities. However, contrary to traditional taxis or means of public transport, it is disputable whether ride-sharing collaborative platforms are bound by anti-discrimination rules, and hence whether they have to provide disability access. Moreover, the examples presented in this paper prove that discrimination is not only limited to the users, but it also affects workers in the collaborative economy sector, who face discrimination on a daily basis due to their race, nationality, or sex. The legislator should intervene in cases when collaborative platforms do not address discrimination issues or remain unsuccessful in their attempts. This is particularly important within the European Single Market, which is based on equality and non-discrimination principles.

With respect to market access and competition law, there are no doubts that the unregulated collaborative economy sector poses a serious threat to the existence of more traditional business models which are burdened by tax and employment rules. Additionally, the usage of big data and network effects leads to information asymmetry and increases the risk of platform dominance and monopolisation of the market. The disruptive nature of collaborative platform business models remains one of the most disputed issues in the media and political realms, and needs to be urgently addressed by the policy-makers who have to, on the one hand, mitigate the most negative impacts of collaborative platforms, and on the other hand, keep advantages of the collaborative economy such as low barriers of entry and exit, low costs, and flexibility. Even though balancing these conflicting interests is not going to be easy, legislator intervention is necessary, since multi-homing and self-regulation are insufficient mechanisms for the elimination of market disruptions caused by collaborative platforms.

Lastly, the business models adopted by collaborative platforms are frequently called into question with regard to consumer protection, data privacy, data transparency, and cyber security. The companies argue that they play the role of intermediaries that connect consumers and service providers, and hence, should not be held responsible for any harm experienced by consumers. However, this is questionable given the power and control platforms have in establishing a transaction process. Furthermore, companies are reluctant to disclose their working mechanisms and admit how much consumer information, including their personal data, they own and process for their commercial activity. Consumers should receive basic legal protection in order to prevent information asymmetry, unfair service terms, as well as rating and price manipulations.

The above-mentioned challenges in various fields of law demonstrate that the rapid and uncontrolled growth of the collaborative economy has significantly outpaced the law's ability to address numerous problems that have emerged in this novel sector. After examining the size and versatility of the collaborative economy within the European Union and the diversity of various regulatory approaches taken by Member States, the Author reaches the conclusion that a one-size-fits-all approach cannot be sufficient to regulate this complex sector, as legislation should reflect its inherent diverse attributes and varied regulatory states. The fragmentation of regulation is caused by the fact that, instead of introducing a consistent regulatory framework for the collaborative economy in the EU in 2016, the European Commission decided to refrain from using hard law, and instead issued a non-binding agenda. Although "A European Agenda for the Collaborative Economy" provides a definition of the collaborative economy and examines the main regulatory challenges in Europe, it does not provide any strict regulations or practical problem-solving solutions. As a result, highly varied regulatory approaches towards the collaborative economy, ranging from a lack of regulations to various, sector-tailored provisions, are currently employed across Member States. Moreover, despite the fact that the Commission announced in the Agenda that it will continuously review the development of collaborative platforms in the Single Market, no substantial EU studies have been published since 2018. Consequently, Member States, local authorities, and courts at all levels struggle to mitigate negative outcomes and challenges posed by this scarcely regulated sector.

While imposing new rules on the collaborative economy, Member States have to consider its social, economic, and environmental impacts from the standpoint of sustainability. The 17 SDGs introduced by the UN's 2030 Agenda for Sustainable Development in 2015, provide a globally legitimised roadmap with clear targets for a more sustainable future. The SDGs constitute a powerful call to action to protect natural resources, end inequality, and ensure that everyone can enjoy health, justice, and prosperity. With respect to economic value, it is estimated that gross revenue in the European Union from collaborative platforms can increase up to €572 billion by 2025.[259] The European Commission revealed that the revenue from the collaborative economy reached €26.5 billion in 2016, and about 394 000 people worked within this sector in the EU.[260] From the perspective of economic sustainability, the collaborative economy offers flexible work options available to everyone, which matches supply and demand in the most efficient and low-cost manner, prolongs the life cycle of already existing products, and opens the market for consumers who gain temporarily access to luxury goods and services that normally would be unavailable to them. From the perspective of the social aspect of sustainability, the collaborative economy has had a positive influence on consumer lifestyles and choices by introducing a shift from ownership to accessibility. Instead of purchasing and collecting new products, consumers are offered temporary access to already used goods. It is a step on the path to transition from a linear economy (based on the "take, make, and dispose" approach) to a circular economy (based on the "make, use, and recycle" concept). Additionally,

[259] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, R. Vaughan, R. Daverio, *op. cit.*, p. 7.

[260] European Commission, Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs, M. Nunu (et al.), *op. cit.*, p. 9.

platforms ensure trust between users and service providers by giving access to goods and services in a safe and comfortable manner. Thanks to trust-enhancing digital cues integrated into platforms, such as dynamic feedback systems and self-regulating mechanisms, service providers, such as hosts or drivers, feel comfortable with sharing space in their houses or cars with strangers met on the platform. Similarly, users feel that the access offered to products and services is safer and more reliable thanks to the intermediation of the platforms. Hence, the practice of sharing, exchanging, swapping, and gifting can boost trust in local communities. From the standpoint of environmental sustainability, the collaborative economy can lead to greening the economy by supporting efficient use of natural resources, increasing the circularity of materials in the economy, and reducing the emission of green-house gases. Collaborative platforms can help in the efforts to reduce the overall waste generation and raise environmental awareness in society. These potential positive outcomes of the collaborative economy are in line with the 17 SDGs, and specifically with Goals 12 (Responsible consumption and production), 8 (Decent work and economic growth), 9 (Industry, innovation and infrastructure), 11 (Sustainable cities and communities), and 17 (Partnerships for the goals). Therefore, it is vitally important to develop a model of regulation that will foster the rise of collaborative economy business models whilst maximising their sustainability potential. The recommended model should aim to mitigate the disruptive socio-environmental impacts of collaborative platforms without undermining their economic performance and potential for sustainable development. In order to develop the best hypothetical model for the regulation of the collaborative economy in the European Union, the Author suggests both practical recommendations for examining current and future states and impacts of the collaborative economy sector, as well as provides *de lege lata* and *de lege ferenda* postulates for the future legislative framework.

Practical recommendations for monitoring the impact of collaborative platform activity are essential to identify current challenges and predict the future state of development of the collaborative economy. Hence, the Author suggests that the European Commission should carry out a second edition of the study on the business and regulatory environment affecting the collaborative economy in Member States. This study should be based on the Collaborative Economy Index and be repeated every year or biennially. Further, the European Commission should initiate research that will investigate the environmental impact of the collaborative economy in the EU. A burning need for such research was expressed by both researchers and public authorities, who struggle with limited information and call for increased data collection from platforms at both the Member State and EU levels. The collected data will help develop the most efficient policies towards the collaborative economy sector. Lastly, learning from the British approach towards collaborative platforms, the Author recommends increasing cooperation between public authorities and stakeholders by setting up a body (consisting of representatives from the collaborative economy sector) which will work closely with the EU institutions to examine the impact of their business activity and to develop effective policies for the collaborative economy.

With the objective of providing a valuable and comprehensive *de lege lata* analysis and *de lege* postulates, this paper has addressed dilemmas regarding the type of regulation (lack of regulation, self-regulation, top-down or collaborative regulations), the timing of regulation (*ex ante* or ex *post*), the novelty of applicable regulations (expanding existing rules or creating new regulations), the scope of regulation (horizontal crosscutting rules or sector-specific provisions), the authority to impose regulation (regional and national or EU legislator), and what types of legal instruments (regulations, directives or soft law), if any, should be adopted on the EU level. The Author reached the conclusion that the EU's model for the collaborative economy should be based on existing rules, which would be tailored to specific sectors and consist of an *ex post* framework (with the exception of situations in which people's lives and health are at stake). Instead of choosing top-down or bottom-up regulations, the EU legislator should balance collaborative regulation after consultation with representatives of the collaborative economy sector as well as national and local authorities. The most effective model for regulation for the collaborative economy should be centralised at the EU level and built on already developed solutions, which are effectively implemented in some Member States. In the Author's opinion, a directive is the most appropriate legal instrument to implement new provisions. This is because the results of the directive are binding to all Member States to which it is addressed, yet it leaves discretion in terms of the method by which the result is achieved.

To make the recommended model for the regulation of the collaborative economy the most effective and sustainable, actions to develop and implement it should be taken at all levels: European (by the EU institutions), national (by the Member States), and local (by the local authorities). Additionally, businesses, non-governmental organisations, EU citizens, and the research community should contribute to the process of law-making. Future research may wish to explore the impact of the COVID-19 pandemic on the collaborative economy sector, which could be a catalyst for a systematic shift to a more sustainable economy and social change. Further, it is critically important to examine theoretical and empirical analyses of the drivers of the collaborative economy in order to differentiate between truly environmentally friendly companies and profit-driven corporations with disruptive business models which hide under greenwashing slogans. Additionally, theoretical and empirical analysis can be conducted of the relationship between the collaborative economy (based on access) and mainstream economy (based on ownership), as well as their impacts on economic growth and green development. Moreover, as recommended in this paper, the European Commission should urgently order transdisciplinary and transformative research which will assess the economic, social, and environmental impacts of collaborative platform activity in the European Union. It would be beneficial to analyse and compare the various policies introduced by Member States and their local authorities in terms of their effectiveness and sustainability. In addition, alternative governance schemes for regulating platforms can be also examined. The results of this research will help develop optimal regulatory responses of governments at local, national, and EU levels, as well as the models of self-governance employed by platforms. Even though conducting such complex analyses, which require a range of disciplinary perspectives and methodological approaches, is an organisational and logistical challenge, the academic community has to add its contribution to developing a sustainable future of the collaborative economy in the European Union. To conclude, the Author firmly believes that this study will add a new perspective to the lively debate on the future of collaborative platforms and has provided feasible solutions and recommendations for the EU legislator in a field where research and professional practice frequently seem in discord.

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List of Figures and Tables

Summary

This publication addresses the issue of the collaborative economy in the European Union from the perspective of sustainable development. From the simple idea of renting, lending, reselling, or swapping underutilised resources (e.g., tools, space, time, and skills), the collaborative economy developed into a complex, novel, and innovative economic sector which has completely revolutionised traditional markets and shifted consumer preferences and lifestyles. Today's collaborative economy consists of a wide array of business models which vary significantly in their ideological roots, values, technological resources, size, and legal forms. This multifaceted socio-economic phenomenon has become a subject of fierce debate in both media and academic discourses. While supporters of the collaborative economy firmly believe that it is a promising opportunity for individual activism, sustainable development and environmental progress, opponents call it a misleading mystification of an unruly and unjustly idealised "low cost" access economy. Whether collaborative platforms should be seen as profit-driven corporations which hide their disruptive business model under greenwashing slogans, or as pioneers in transforming commercial business models into sustainable and environmentally friendly companies, is highly disputed.

This publication aims to assess the economic, social, and environmental costs and benefits of collaborative platforms, as well as address a series of complex regulatory challenges in a number of areas, including unclear employment status of workers, tax enforcement, anti-discriminatory rules, data privacy, cyber security, market access, and unfair competition. Given that sustainability has become one of the top priorities of the EU, it is vitally important to develop optimal legal framework to ensure that collaborative platforms operate in the EU in the most sustainable, inclusive, and effective manner. Therefore, the main research objective of this paper is to find the best hypothetical model for regulating the collaborative economy in the EU in order to mitigate disruptive socio-environmental impacts. Achieving this goal unlocks growth potential for the entire economy by creating jobs, prosperity, and commonwealth in the EU, as well as by minimising the detrimental impact of collaborative platforms on the environment and traditional markets.

This publication encompasses a doctrinal legal-dogmatic approach, as it the examines various regulatory approaches to collaborative economy platforms adopted by the European Union and its Member States, as well as by the United Kingdom. The methods applied in this research include black letter law analysis, international comparative research, cross-disciplinary analysis, case study, and literary criticism. The literature examined for this paper contains academic publications on collaborative economy (books, chapters in books, articles in journals, online publications), reports of nongovernmental organisations and private companies, as well as printed and online media news.

To the best of the Author's knowledge, prior to the publication of this work, there have been no published papers that focus on the evaluation of the collaborative economy sector in the EU from the standpoint of sustainable development. The Author hopes that this fresh perspective shall contribute to the lively debate on the future of collaborative platforms and provide feasible solutions and recommendations for EU legislator in a field in which research and professional practice frequently seem to be in discord.

Keywords:
collaborative economy; sharing economy; European Union; sustainable development; collaborative platforms; digital economy

Streszczenie

Niniejsza praca podejmuje temat problematyki tzw. gospodarki współpracy (*collaborative economy / sharing economy*) w Unii Europejskiej z perspektywy zrównoważonego rozwoju. Począwszy od prostej idei opartej na wynajmowaniu, wypożyczaniu, odsprzedawaniu lub wymianie niewykorzystanych zasobów (tj. narzędzi, przestrzeni, czasu czy umiejętności), gospodarka współpracy stała się nowatorskim i innowacyjnym sektorem gospodarki, który całkowicie zrewolucjonizował tradycyjne rynki oraz znacząco wpłynął na preferencje konsumentów oraz ich styl życia. Po dwóch dekadach dynamicznego rozwoju gospodarka współpracy obejmuje obecnie szeroki wachlarz modeli biznesowych, które różnią się pod względem reprezentowanych wartości, zasobów technologicznych, wielkości i prawnych form działania. To rewolucyjne zjawisko społeczno-gospodarcze stało się w ostatnich latach szeroko dyskutowanym tematem debat medialnych i akademickich. Zwolennicy gospodarki współpracy wierzą, że ten innowacyjny sektor stanowi obiecującą szansę dla indywidualnego aktywizmu, zrównoważonego rozwoju i postępu ekologicznego, przeciwnicy natomiast uważają, że jest to wyidealizowana, niskokosztowa gospodarka, destrukcyjnie wpływająca na środowisko i kulturę pracy. Szczególnie kontrowersyjna wydaje się działalność platform współpracy, a dokładnie to zagadnienie, czy powinny one być postrzegane jako nastawione na zysk korporacje, które ukrywają swój destrukcyjny model biznesowy za marketingowymi sloganami ekologicznymi, czy też jako pionierzy w przekształcaniu komercyjnych modeli biznesowych w modele zrównoważone i przyjazne dla środowiska.

Celem pracy jest ocena wpływu platform współpracy na ekonomię, społeczeństwo i środowisko, a także przedstawienie szeregu złożonych wyzwań regulacyjnych w wielu obszarach prawnych, w tym m.in. niejasnego statusu zatrudnienia pracowników, egzekwowania podatków, przepisów antydyskryminacyjnych, prywatności danych, cyberbezpieczeństwa, dostępu do rynku i nieuczciwej konkurencji. Biorąc pod uwagę to, że zrównoważony rozwój stał się jednym z najważniejszych priorytetów UE, niezwykle istotne jest opracowanie takich ram prawnych, które zapewnią, że platformy współpracy będą działać w sposób zrównoważony i efektywny. Stąd też głównym celem badawczym niniejszej pracy jest wypracowanie możliwie optymalnego i efektywnego modelu regulacji gospodarki współpracy w Unii Europejskiej z perspektywy zrównoważonego rozwoju. Osiągnięcie tego celu może pomóc w uwolnieniu potencjału wzrostu całej gospodarki przez tworzenie nowych miejsc pracy oraz zminimalizowanie szkodliwego wpływu platform współpracy na środowisko i tradycyjne rynki.

Do zbadania postaw i regulacji prawnych wobec platform gospodarki współpracy, wypracowanych przez Unię Europejską i jej państwa członkowskie, a także przez Wielką

Brytanię, zastosowano podejście prawno-dogmatyczne. Metody wykorzystane w tym badaniu to analiza aktów prawnych, międzynarodowe studium porównawcze, analiza interdyscyplinarna, studium przypadku i krytyka literacka. Literatura analizowana na potrzeby niniejszej pracy obejmuje publikacje akademickie na temat gospodarki współpracy (książki, rozdziały w książkach, artykuły w czasopismach, publikacje internetowe), raporty organizacji pozarządowych i przedsiębiorstw prywatnych, a także wiadomości przedstawiane w mediach internetowych i prasie.

Zgodnie z wiedzą Autorki przed opublikowaniem tego opracowania nie wydano żadnych prac naukowych, które koncentrowałyby się na ocenie sektora gospodarki współpracy w UE z perspektywy zrównoważonego rozwoju. Autorka ma nadzieję, że to świeże spojrzenie przyczyni się do rozwoju debaty na temat przyszłości platform współpracy oraz dostarczy praktycznych rozwiązań i rekomendacji dla ustawodawcy UE w dziedzinie, w której badania i praktyka zawodowa często wydają się rozbieżne.

Słowa kluczowe: gospodarka współpracy, gospodarka dzielenia się, Unia Europejska, zrównoważony rozwój, platformy współpracy, gospodarka cyfrowa

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This publication makes a notable contribution to the highly discussed and lively topic of the collaborative economy in the European Union from a sustainable development perspective. The author provides readers with novel and comprehensive data regarding the economic, social, and environmental costs and benefits of collaborative platform activity in Europe. The main research objective of this publication is to find the best hypothetical model for regulating the EU's collaborative economy in order to mitigate disruptive socio-environmental consequences. Achieving this goal unlocks substantial growth potential for the entire economy by creating jobs, prosperity, and common wealth in the EU, as well as by minimizing the detrimental impact of collaborative platforms on the environment and traditional markets. Additionally, this book sheds light on a series of complex regulatory challenges in a number of areas, including an unclear employment status of workers, tax enforcement, anti-discriminatory rules, data privacy, cyber security, market access, and unfair competition. This book is a must-read for those who are searching for the most up to date information on the socio-environmental impact of the collaborative economy, the EU's and UK's policies towards digital platform regulation, and the contribution of the EU to the achievement of the Sustainable Development Goals. The author firmly believes that this fresh perspective makes a substantial contribution to the lively debate on the future of collaborative platforms and provides feasible solutions and recommendations for EU legislators in a field where research and professional practice frequently seem to be discord.

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