

TERMS OF REFERENCE FOR EXPERTS

Terms of reference for on-site activities and missions

Action code and partner country: SOCIEUX 2022-17 KAZAKHSTAN

Action title: *Development of proposals for normative regulation of the activities of digital platform workers*

Partner institution: "Center for the Development of Human Resources"

Activity number and title:

A. 3: Developing proposals to improve normative regulation of digital platform work

Date of implementation of activities:

Activity 3: 05/05-16/06/2023 (22-26/05/2023 on-site mission TBC)

Expert positions and responsibilities (by activity):

Expert 2: Labour Legislation; Non-Standard Forms Of Employment (digital platform work); 2.1. Laws and regulations making and development

The same principal expert will be mobilized for two activities. These terms of references concern expert 2. For principal expert please refer to specific terms of references.

Workload:

Expert 2 : 19 days (including 5 days onsite).

Call for experts' reference: **22-17/KAZ/3**

Version - #: 2 ☒ Draft

☐ Final

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1 BACKGROUND INFORMATION

1.1 Country overview

Kazakhstan is a large transcontinental country located in Central Asia and partially in Eastern Europe. It has borders with Russia, China, Kyrgyzstan, Uzbekistan and Turkmenistan. It is a land-locked country with only access to the Caspian sea. The city of Nur-Sultan (formerly Astana) became the country's capital in 1997; Almaty, the previous capital, is still the country largest city. It is located in the south-east of Kazakhstan, on the border with Kyrgyzstan. The geographic position of the country allows it to be an important link between China and South Asia and Russia and Europe by road, rail and the Caspian sea.

Kazakhstan has the population of 19 million people, and very low density, with most people living along the northern and south-eastern borders of the country. GDP per capita in current USD was 9,106.4 in 2020 with positive economic growth in 2021 despite the pandemics.

Since independence in 1991, Kazakhstan has experienced remarkable economic performance. Rapid growth, fueled by structural reforms, abundant hydrocarbon resources, strong domestic demand, and foreign direct investment (FDI), has helped reduce poverty and transform the country into an upper-middle-income economy. Before the pandemics, according to national statistics, about 4,5% of population lived below poverty rate. However, about half of the country's population lives in rural and economically isolated areas with poor access to public services and vulnerability to poverty. HDI is 0,825 – above average - ranking 51st.

In 2019 a transition of power from Nursultan Nazarbayev, the first president of Kazakhstan, to Kassym-Jomart Tokayev took place and some political reforms were implemented. In early 2022 a series of massive protests and an attempted coup d'état were suppressed. Nazarbayev was removed as the chairman of the National Security Council, the last post he had held.

1.2 Sector situation

Currently, this type of employment becomes more and more frequent in Kazakhstan, and includes freelance workers of intellectual work as well as technical professions, proposing their services via platforms. The Center estimates that after the COVID pandemic there are about 300 000 people in Kazakhstan working freelance, and 75 thousand people working remotely. Today, labor legislation in Kazakhstan recognizes some forms of employment, but new forms of social and labor relations require appropriate legal and tax regulation, which affects the interests of many categories of citizens. No clear legal framework can be applied to this type of labour relations, they are most often informal; workers' status is not defined, their rights and labour conditions are not protected, current rules on tax and social security contributions are not adapted to their situation. This problem is not unique to the Kazakhstani labor market, therefore, using the experience of foreign countries would make it possible to more effectively and / or with less risk introduce appropriate measures in the regulation of labor activity. Therefore, the Partner institution has engaged a reflexion on formalizing the status of digital platform workers and will be supported by SOCIEUX+ technical assistance to get the knowledge of EU good practices in the area and to develop national strategy.

1.3 Role of partner institution in the sector

Center for the Development of Labor Resources is a large analytical center under the Ministry of Labor and Social Protection of the Population of the Republic of Kazakhstan. It support decision-making process by providing evidence-based scientific recommendations in the areas on labour relations, employment and social protection.

It also provides support for reference databases in the areas of labour and social protection. The high level of informatization allows the Center to manage the database of more than 19 million citizens (jobseekers, persons receiving social benefits, mothers with many children, working pensioners, persons with disabilities, individual entrepreneurs, self-employed, etc.) which allows more efficient designation and provision of services.

Today, as part of its activities, the Center is directly involved in improving the quality of labor mediation through the development of infrastructure in the field of employment. A unified digital employment ecosystem has been created to accompany citizens on their professional path: from training to registration of labor relations (enbek.kz, skills.enbek.kz, business.enbek.kz, hr.enbek.kz).

Having access to the original source of data, the CRTR provides analytical support to the Government, which allows to formulate systemic proposals for the development of the social and labor sphere and is a reliable evidence base for making political decisions. The mission of the Center is to assist in creating conditions for the development of an efficient labor market and improving the quality of public services provided in the social and labor sphere. The vision of the Center is to be a key analytical institution that contributes to more efficient social and labor sphere by supporting innovation, preparing and implementing strategic projects, as well as large-scale introduction of digital tools.

2 ACTION DESCRIPTION

2.1 Overall objective

Access to employment and social protection is expanded to poor and vulnerable groups

2.2 Specific objective (s) (purpose)

S. 1: To contribute to formalization of legal status of digital platform workers in Kazakhstan

2.3 Expected results

R. 1: The PI has substantial knowledge of EU good practices in the area of legal regulations of digital platform workers

R. 2: Proposals to improve the legal framework and practical recommendations for the normative regulation of digital labour platforms were developed

2.4 Final deliverables

D. 1: Compendium of EU countries' good practices and European recommendation on legal framework for digital platform workers

D. 2: Assessment report with recommendations

D. 3: Proposals to improve the legal framework for labour regulation of digital platform workers (normative document)

3 METHODOLOGY

3.1 General methodology (of the action)

The proposed action focuses on supporting the partner institution in developing proposals for regulatory framework of digital platform workers.

Within the action, first, latest experience from EU countries and supranational recommendations will be shown to the Partner Institution in order to present different approaches and initiatives to regulation of digital platform workers and identify good practices relevant or adjustable in the context of Kazakhstan. Then an assessment of existing normative regulation will be conducted. At the final stage proposals of regulation change will be prepared.

The thematic focus will be put on the recognition and regulation of social and labour relations existing between the worker and the platform, formalisation of employment status, basic labour guarantees. Questions of tax regulation and social guarantees may also be considered additionally.

The scope of action was narrowed compared to the initial request, to focus on normative regulations of labour relations of digital platform workers (statistics and data collection were excluded).

The technical assistance methodology will be detailed by the mobilized experts. Notwithstanding this experts' responsibility, the overall methodology shall be centred on the international standards and EU best practice in the field of monitoring and evaluation of projects financed by public grants. The experts shall take into account the work that has been done so far by the Partner institution and follow the peer-to-peer approach in their work with the Partner institution.

3.2 Planned activities (work plan of the action)

The following activities are currently planned for the action:

- A. 1: Showcase of EU countries' good practices and European recommendation on legal framework for digital platform workers
- A. 2: Assessment of the existing legal framework applicable to digital platform workers in Kazakhstan
- A. 3: Developing proposals to improve normative regulation of digital platform work. The present terms of reference cover the services expected for activities of the above work plan:
 - Activity 3.

3.3 Inclusion of cross-cutting issues

SOCIEUX+ recognises the importance to include cross-cutting issues in social protection, labour and employment policies and systems. The following cross-cutting issues are duly taken into account:

- Gender equality;
- Good governance;
- Human rights (including rights of children, people living with disabilities, vulnerable groups and minorities); and,
- Social and economic inclusion of vulnerable groups.

4 ACTIVITIES DESCRIPTION

4.1 Tasks

The action includes three activities.

The third and last activity is focused on development of normative proposals to be introduced into national regulatory framework in order to improve the regulation of digital platform work.

Basing on the results of assessment and recommendations (Activity 2) and on pre-identified EU and international good practices and approaches transferable to Kazakhstan context (Activity 1), the experts will co-develop the proposals of normative acts together with the team of specialists from the Partner Institution. A series of workshops and focus groups can be organised to enable the co-drafting process. The workshops will be dedicated to the material drafting of the legislation proposal, which will be further refined by the experts in the reporting phase up to the desired stage as agreed.

The proposals may concern the following thematic areas of regulations:

- recognition of social and labour relations existing between the worker and the platform, formalisation of employment status, basic labour guarantees. definition of flexible work via platforms;
- legal definition of such relations;
- labour guarantees and working conditions;
- labour and social rights that come with the status etc.

Questions of tax regulation and social guarantees may also be considered additionally if needed.

The final technical deliverable will consist in proposals of normative acts/amendments to be introduced in the actual regulatory framework in Kazakhstan.

Experts' team:

The team of experts will develop peer-to-peer methodology together with the Partner Institution as well as the agenda of the activity.

The principal expert will lead the mission on site. He/she is responsible for the production of all deliverables of the activity (see section 4.2). He/she will also be responsible for the preparation, coordination, implementation and reporting and/or coordination of the overall activity.

Partner Institution:

The partner institution shall work in collaboration with experts supporting the preparation and implementation of the activity. The partner institution shall facilitate the organisation of the activity with regards to the following aspects:

- providing or more resource-persons to support the experts in the material and technical organisation, as well as, in brainstorming sessions and in elaboration of recommendations
- identifying a team of internal specialists to be a part of the working group with the experts;
- contributing to the technical organisation of the activity, including sharing relevant background documents, contacts and technical inputs with the experts
- convening participants to the meetings and ensuring their participation, including external stakeholders
- the material organisation on site (including premises and logistics).

The activity includes a short on-site mission to Astana: on-site mission duration is planned as 5 working days at the request of the partner institution so that receiving experts represent a reasonable workload for them. A part of direct peer-to-peer exchange will be conducted online ("backstopping" days).

Tasks:

Minimum tasks expected from the experts shall include:

- Ahead of the mission to get substantial knowledge of the local context; review any relevant background documents provided by the SOCIEUX+ Team and/or the Partner;
- Conduct preliminary contacts with the Partner in view of the preparation of the on-site mission's methodology and agenda, to be transmitted ahead of the mission to the SOCIEUX+ team for approval;
- Take part to the pre-mission briefing with SOCIEUX+ team (around 1 week before the departure);
- During the on-site mission, to conduct consultations with the Partner's executives, legal experts (lawyers) and staffs, as well as any other external actor that can support the positive deployment of the mission;
- To make themselves available for a briefing and/or debriefing meeting with the EU Delegation office in Nur-Sultan;
- To present the outcomes of the mission to the partner in order to discuss and take into account comments on the contents of the deliverables before their finalization;
- At the end of the mission, timely submit to SOCIEUX+ of the final deliverables (10 working days after the mission), and be available to go through an eventual round of comments and adjustments in interaction with SOCIEUX+ and the Partner;
- To channel to SOCIEUX+ Communication officer any material that can be useful to inform the public about the activity (pictures, interviews, brief notes or articles).
- To employ the different templates and evaluation forms provided by the SOCIEUX+ team

4.2 Deliverables**4.2.1 *Pre-mission deliverables for each activity (to be transmitted to SOCIEUX+ FMT at least three working days ahead of the activity):***

- P1: A methodological note, detailing the working approach, tools and methods to employ, a risks analysis, etc. The Methodological Note shall not exceed 3 pages (excluding cover page and annexes).
- P2: An activity agenda, detailing the meetings and working sessions to be held, persons to meet, etc. The Activity/mission Agenda shall not exceed 2 pages.

4.2.2 Final deliverables (to be transmitted to SOCIEUX+ FMT no later than ten days after the activity's completion):

- D3: Proposals of normative documents to improve the legal framework for labour regulation of digital platform workers
- AcR: A collective Activity Report in SOCIEUX+ format (template provided). This AcR is to be produced jointly by the mission team. It is intended for the Partner Institution, and will be shared, most probably, with key stakeholders of the action. The report will reflect the tasks conducted in during the activity. It shall provide a meaningful contribution towards the final deliverables of the action.
- ExMR: An individual Expert Mission Report in SOCIEUX+ format (template provided). This report is a confidential product intended solely for and use by SOCIEUX+. The expert team may also submit a single-joint ExMR report if they prefer to do so (see instructions on the template).
- ExF: An individual completed Expert Feedback Form completed online (see instructions and link on the ExMR template).

5 REPORTING AND SUBMISSION OF DELIVERABLES

5.1 Formats

All deliverables and products of the activity (notes, reports, presentations, etc) shall comply with the formats and templates provided by the SOCIEUX+ Team.

All deliverables are to be submitted in electronic in electronic editable versions [Microsoft Word 97-2003 [doc], PowerPoint 97-2003 [ppt] and Excel 97-2003 [xls]; or in equivalent OpenDocument format). Non-editable electronic document such as in Portable Document Format (PDF) shall not be accepted.

Templates for electronic presentations during the activity/mission are provided by the SOCIEUX+ Team. These templates are in Microsoft PowerPoint format and comply with the SOCIEUX+ Corporate Image standards. These templates are to be used as a sole format by all members of the expert mission team. They are to be used for all presentations by the experts during and for the activity/mission. The use by the experts of their own, or their organisation(s), templates or formats are not allowed unless otherwise instructed in written [by email] to the experts by the SOCIEUX+ Team.

All versions of deliverables or other products used or produced during activity/mission by the experts shall include the following disclaimer:

"Disclaimer:

The responsibility of this publication sole lies with its authors. The European Union, the European Commission, the implementation partners of SOCIEUX+ and the SOCIEUX+ Staff are not responsible for any use that may be made of the information contained therein."

Please refer to the expert information package for further guidance on communication and templates.

All deliverables are to be provided in English.

5.2 Submission and approval

All deliverables versions (drafts, final or other) shall be submitted directly and only to SOCIEUX+ Team, unless otherwise instructed in written [by email] to the experts by the SOCIEUX+ Team.

5.2.1 Pre-mission deliverables

- Pre-mission deliverables shall be submitted no later than 3 working days before the start of activity.
- Pre-mission deliverables will be shared and reviewed by the SOCIEUX+ and the Partner Institution. Feedback on the deliverables should be provided to the Principal Expert at latest 2

days before the start of activity or departure of the mission of the experts, whichever is the earliest. Comments and recommendation of this feedback shall be taken into account for the implementation of the activity/mission by the experts. Only the mission agenda shall be resubmitted with revision if requested by the SOCIEUX+ Team.

5.2.2 Final deliverables

- The first draft versions of the final deliverables are to be submitted no later than 10 working days upon completion of the activity or return of the experts.
- Feedback to the first draft version of the report should be provided 10 working days after its submission.
- Inclusion of the feedback on drafts versions is expected 5 working days upon reception of the comments by the principal expert. (In general, no more than one round of feedback and revision is required, unless the quality of the deliverables is considered unsatisfactory by the SOCIEUX+ Team or/and the Partner Institution.)
- Final versions of the deliverables should be approved or rejected no later than 10 working days upon their submission to the SOCIEUX+ Team.
- Final payments and reimbursement of travel costs to experts can only be authorised upon approval of the final version of the deliverables by SOCIEUX+.

6 REQUIRED EXPERTISE

6.1 Expertise profile

Expert 2:

Area(s) of expertise: Labour Legislation; Non-Standard Forms Of Employment (digital platform work)

Specific skill(s) of expertise: 2.1. Laws and regulations making and development

Requirements (essential/required):

- a) The education type and level required:

“Bachelor’s” degree (or equivalent academic degree or diploma requiring three (3) years of formal education) in the areas of expertise (see above), or another directly related discipline. In its absence, the bachelor’s degree can be replaced by a combination of:

- A first-level academic degree (“License” or equivalent) with an additional two (2) years of professional experience in one or more relevant fields.

The additional work experience used in calculating academic equivalence shall not count towards the minimum general professional experience.

- b) The number of years of relevant work/professional experience within EU public administrations or academia combining the area(s) of expertise and demonstrated specific skill(s) & competence(s):

Five (5) years.

- c) Required language knowledge: fluency in English, written and oral; working level of Russian language will be an additional asset;

N.B.: Translation and interpretation services may be commissioned by SOCIEUX+.

- a) Other essential qualification(s):

- Relevant experience in the area of assessment of labour laws and regulations;
- Particular knowledge of the problematics related to non-standard forms of employment, digital platform work and gig economy;
- Knowledge of EU rules and recommendations on platform work;

- Acute sense of diplomacy and institutional relations.

Additional assets (advantageous in selection):

- Previous experience of technical assistance;
- Knowledge of Central Asia;
- Working level of Russian language;
- Computer fluency (Zoom, PowerPoint etc.) and good presentation skills.

6.2 Estimated workload

	Preparation	On-site mission	Travel	Backstopping	Reporting & deliverables	Total
Principal expert (#1)	4	5	2	4	4	19
Expert (#2)	4	5	2	4	4	19
Total	8	14	4	8	8	38

7 APPLICATIONS

7.1 Call for experts

All calls for experts for SOCIEUX+ activities are published online on the SOCIEUX+ website. Interested experts should submit their application on the SOCIEUX+ on-line expert database: <https://pmt.socieux.eu> (currently only available in English). The application process is:

1. If they have not already, experts create their SOCIEUX+ account by clicking on "Create an account" using an email address.
2. Login details for their account will be sent to experts by email, experts should create and submit their profile for review by¹:
 - a. Providing contact details
 - b. Providing information on the competences, skills and working history of the expert. Experts are required to provide only limited information through fields marked with an asterisk. However, *experts are encouraged to complete in most detail de sections on skills and competences as the SOCIEUX+ Team also regularly reviews profiles in the roster to identify and contact potential experts for future missions.*
 - c. Uploading of a curriculum vitae, preferably in Europass format².
3. Once their profile is approved by the SOCIEUX+ Team, they can apply to any available calls for experts accessible under the tab "Call for experts" and click on "Apply."

If more information is needed, please contact SOCIEUX+ by email at experts@socieux.eu with the reference number of the application.

Collaborative or interested institutions wishing to make expertise available for a specific call for application may directly contact the team of SOCIEUX+ at experts@socieux.eu.

¹SOCIEUX+ expert database and other management tools comply with the General Data Protection Regulation (GDPR) -Regulation (EU) 2016/679.

²Europass templates for CVs are available here: <http://europass.cedefop.europa.eu/en/documents/curriculum-vitae/templates-instructions>

7.2 Selection of experts

In principle, SOCIEUX+ mobilises experts from the public administrations and mandated bodies of EU member states, and practitioners working for social partners, including:

- Practitioners, civil servants and employees from publicly mandated bodies;
- Collaborators and employees of social partner institutions, such as trade unions and employer associations; and,
- Academic and research institutions.

Active public experts from collaborative institutions are given priority in the selection. Private consultants may also apply. Their application will be considered in case an appropriate public expert cannot be identified.

Only short-listed applicants may be contacted. The selection process may include interviews by phone or other communication means.

Interested candidates may download the **Guide for Experts and Collaborative Institutions** with detailed information on contracting with SOCIEUX+ at www.socieux.eu

7.3 Contracting of public experts

Public experts can be in active duty or retired. Retired employees from international specialised agencies or cooperation agencies can also be mobilised, without regard to their former employer's collaborating with SOCIEUX+ on a specific action. Retired experts are considered as public experts for all purposes, benefits, and financial compensation provided by SOCIEUX+.

Short-listed candidates may be required to provide the contact of employer or proof of their ability to be directly contracted under their status as civil servant or public employee.

7.4 Financial compensations

Contract officials or active-duty or retired employees are entitled to standard fixed allowances of 350 euros per working day worked. The fees of private consultants are negotiated according to their number of years of relevant expertise and the standard scale of SOCIEUX+.

Retired experts are assimilated to public employees for all intents and purposes, benefits and financial compensation provided by SOCIEUX+.

National regulations on remuneration and compensation of public employees and civil servants applies and may limit the payment of allowances by SOCIEUX+. The responsibility for compliance and verification lies with individual experts and their institutions of origin. The payment of income or other taxes is the sole responsibility of the mobilised experts and/or their organisations.

7.5 Travel costs

All travel expenses for the mobilised experts (public, private or international institutions) are covered by SOCIEUX in accordance with the **Guide for Experts and Collaborative institutions** with detailed information on contracting with SOCIEUX+ (version as on date of signature of the contract).

8 COMMUNICATION & VISIBILITY

SOCIEUX + can use its communication channels, such as the web, newsletter and other media, to share information about the implementation and results of the activities. For this, contributions of the experts mobilised are expected. The experts may be requested to provide such contributions in the field of communication as photographs, provide short texts, and interviews.

Short briefings, before and after the mission, with the Communication Officer of SOCIEUX+. This briefings will provide the opportunity to identify communication opportunities and strategies.

For specific activities, visibility products, such as brochures, USB sticks, notebooks and pens, can be made available to experts for on-site distribution.

9 CODE OF CONDUCT

The experts mobilised by SOCIEUX+ will provide technical assistance from the preparatory stages of each activity to the delivery of products. The SOCIEUX+ Team will assist experts to fulfil their assignments by supporting and advising on the preparation of background materials before meetings. The SOCIEUX+ team will collect feedback from partner institutions and relevant stakeholders to ensure that mission reports and recommendations are delivered to national authorities, the EU Delegations in the partner countries and EuropeAid.

The experts mobilised are not representing SOCIEUX+ or the EU. Technical opinions and recommendations expressed are their own. They shall not express negative opinions on the implementation of actions supported by SOCIEUX+ to third-parties. Nevertheless, they shall be aware of SOCIEUX+'s objectives and functioning, and promote its services at the best of their knowledge, whenever possible and feasible.

The experts shall perform their duties in the Partner Country in a way that is fully compliant with and respectful of the local institutions, policies and cultural behaviours. They shall particularly adopt a culturally-sensitive behaviour in their way to deal with the local counterparts.

10 OTHER CONSIDERATIONS

11 ANNEXES

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ABOUT SOCIEUX+

The SOCIEUX+ Facility was established and funded by the EU through the European Commission's Directorate-General for International Partnerships (DG INTPA) and Directorate-General for Neighbourhood and Enlargement Negotiations (DG NEAR). The Facility is co-funded by France, Spain, and Belgium. It is implemented by a partnership composed of Expertise France (the partnership lead), Fundación Internacional y para Iberoamérica de Administración y Políticas Públicas (FIIAPP) from Spain, Belgian International Cooperation on Social Protection (BELINCOSOC), and the Belgian Development Agency (Enabel).

The Facility's general objective is to expand and improve access to better employment opportunities and inclusive Social Protection systems in Partner Countries. Its specific objective is to enhance Partner Countries' capacity to design, manage, and monitor inclusive, effective, and sustainable employment strategies and Social Protection systems through short-term, peer-to-peer technical assistance and knowledge development.

SOCIEUX+ recognises the impact of Social Protection and employment in reducing poverty and vulnerability. It supports the efforts of partner governments in promoting inclusive and sustainable Social Protection and employment systems. SOCIEUX+ also complements the efforts made through other EU initiatives.

The Facility is an expansion of SOCIEUX Social Protection EU Expertise in Development Cooperation, established in 2013.

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