

Don't GIG Up, Never!

Country update – SPAIN

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(Unión General de Trabajadores – UGT)*

June 2022



dontgigup.eu



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INTRODUCTION

This report is part of a series of follow-up studies to the State of the Art report¹, published in January 2019 under the project 'Don't GIG Up! Extending social protection to GIG workers in Europe' (VS/2018/0018), reviewing debate, studies, and policies arising on platform work in the following countries: France, Germany, Italy, Poland, and Spain².

As part of the 'Don't GIG Up, Never!' project (VS/2021/0204), the report updates country level information up to February 2022, illustrating contextual information and recent developments around platform work. Furthermore, the country update describes political, social and academic debate on platform work, results of recent research studies, relevant legislation and policy reforms, and social partners' responses. This was done using a questionnaire and instructions common to the different countries covered by the partnership.

To support the comparison of findings across countries, the report refers to the 'Don't GIG up!' classification of labour platforms presented in Table 1.

Table 1. Classification of labour platforms adopted in the project 'Don't GIG up!'

Platforms involving passenger transport services (Uber, Lift...);	Type 1
Platforms involving goods delivery services (Deliveroo, Foodora...);	Type 2
Platforms involving 'traditional gigs', like gardening, cleaning activities (Task Rabbit, Helpling...) up to skilled services (marketing, advertising, translating), possibly also by means of auctions (Fiverr, Upwork...);	Type 3
Platforms externalizing micro-tasks, often performed on web, to a 'crowd' of workers (crowd-work platform like Amazon Mechanical Turk).	Type 4

¹ The report is available under the following link: <http://www.dontgigup.eu/resources/>

² The web-site www.dontgigup.eu hosts also two country reports addressing Sweden and Estonia respectively, and covering a larger time span for them were not included in the State of the Art report.

PUBLIC DEBATE ON PLATFORM WORK

Tensions between the employment statuses of self-employed and salaried workers are continuous in European labour markets. The so-called “grey areas” of labour law are an international and national phenomenon³. In this area of “ambiguous employment relationships”, “a genuine and reasonable doubt may arise as to whether or not there is an employment relationship with legal dependence”⁴. But the dimensions of the current confrontation are different. The concept of “self-employed”, and the growth in the amount of service work, is partly based on the creation of new professions or entrepreneurs who lack a clear employment position, often finding themselves in the lowest segment of the so-called self-employed.⁵

In Spain, as in most Western countries, the concept of employee is not safeguarded by the constitutional text⁶, which makes it difficult to protect many groups.

The conflict between self-employed and salaried work has increased in Spain due to the emergence of new technologies combined with new forms of organization of production: digital platforms. The conception of labour law, its scope, the people it covers, as a guarantor of rights and freedoms, is in crisis due to rapid and unpredictable business developments.

In particular, intense debate developed in Spain with regard to the nature of

3 “(...) the emergence of new forms of employment located in the grey and often uncharted territory between employment contracts and freelance work; a difficult fit for the existing binary legal categories of dependent labour and self-employment.” Prassl and Risak, J. y M. “Uber, Task-rabbit, & co: platforms as employers? rethinking the legal analysis of crowdwork” *Comparative Labor Law & Policy Journal*, Forthcoming, Oxford Legal Studies Research Paper No. 8/2016, 30 Pages Posted: 16 Feb 2016; Bayón Chacón y Pérez Botija, G. y E. *Manual de Derecho del Trabajo*, Pons, Madrid, 1963, 4th edition, Vol. I, p. 312; Hernainz Marquez, M. *Tratado elemental de Derecho del Trabajo*, Instituto de Estudios Políticos, Madrid, 1977, 12th edition, p.290.

4 Sagardoy Bengoechea, J.A., *Los trabajadores autónomos. Hacia un nuevo Derecho del Trabajo*, Cinca, Madrid, 2004, p. 72.

5 According to data from the Ministry of Labour and Social Security, the vast majority of these self-employed workers (87.3%) are in the lowest contribution bracket (932.7 euros). The growth of this sector in Madrid has been 14.3% in the last five years, well above the national average.

6 In this sense, the Spanish Constitutional Court ruling No. 227/1998 of 26 November 1998, appeal 3595/1995

the employment status of delivery riders, with the emergence of four main different positions⁷.

Alongside the debate, it is interesting to explore political developments regarding platform work in Spain. Indeed, before the approval of the pioneering 2021 “Rider Law”, the political debate on the regulation of platform work had several periods in which delivery platforms have been the centre of public debate.

The regulation of platform work had a role in different political programmes, from the possibility of creating a new Workers’ Statute, as is the case of Spanish Socialist Workers’ Party (PSOE) and United Left (IU), or with clear allusion to the bogus self-employed, as is the case of Podemos and Más País, during the general elections of 2019. In fact, the Government Agreement signed by PSOE and Unidas Podemos (electoral coalition of IU and Podemos) refers to the fight against labour fraud of the bogus self-employed that the platforms had been leading in recent years.

In response, platform companies lobbied different parliamentary groups and presented reports that sought to justify their organisational model. These reports expressed the ideas that future law should establish the possibility of choosing whether a person can be a self-employed or a salaried worker. This debate was always reported by the media as a confrontation between the two opinions: those who defend the labour model and those who defend the self-employed model. This strategy allowed the platforms to divert attention from the problem: compliance with the law and case law determining the employment relationship.

In this scenario, burdened by the outbreak of the Covid-19 pandemic, Social Dialogue negotiations took place to find the best way to regulate platform work, bearing in mind that the Supreme Court ruling in the Glovo case (see Section 3) had made it clear that under *current* legislation it was possible to define terms of the employment relationship.

After intense debates, the employers’ associations changed their approach after holding an assembly where the main transport employers’ association UNO⁸ stated that the digital platforms were competing unfairly with traditional transport companies that did not use bogus self-employed workers and that, therefore, it was necessary to regulate the work of delivery platforms to avoid destroying the transport sector. This was key to reaching the agreement of 11 March 2021⁹ between the Spanish Government, CC.OO and UGT (trade unions), CEOE and CEPYME (employers’ organisations).

The tripartite agreement was thus reflected in the Rider Law amending the

7 1) Platform delivery rider’s as a mercantile relationship; 2) The application of the TRADE contract (i.e., dependent self-employed workers regulated in art. 8 et seq. of the Statute of the Self-Employed Worker); 3) The constitution of a third special employment relationship; 4) The most protective option: applying the subordinate employment status. For an overview of the different streams of literature regarding the employment status of platform delivery riders in Spain, see literature review in the “5. Reference” Section below.

8 UNO denounced Amazon Flex’s delivery method for using vehicles to transport goods

9 https://cincodias.elpais.com/cincodias/2021/03/10/economia/1615406790_557660.html

Workers' Statute, which introduced new guarantees for people working on digital delivery platforms (i.e., a presumption of employment status) as well as a new section establishing the right of information of workers' representatives about parameters, rules and instructions that determine the work of the algorithm¹⁰. This regulation got the majority support of the political parties in the Congress of Deputies and put an end to the debate on whether there should be the possibility of choosing to be self-employed or a salaried worker. Although some platforms left Spain, others arrived to fill in the gap. Little by little and with certain difficulties, companies began the processes to convert delivery riders into workers with guaranteed labour rights. Only one company has maintained a clear position on the approval of this new law, Glovo, which modified its internal rules with the justification of adapting them to the Rider Law. Despite the enthusiasm, it should be noted that most platform workers apart from delivery riders have still not found protection under these provisions and oscillate between semi-clandestine work, freelance work and precarious employment. These are jobs covered by types 3 and 4 of the "Don't gig up, Never!" classification, which are generally less well paid if compared with other sectors, can be carried out sporadically or permanently and cover many different areas of the labour market (passenger transport, cleaning, care, administrative, consulting, translation, freelancers, microtasks, etc.). The debate on a new Workers' Statute proposes legislative solutions for these categories.

¹⁰ <https://www.businessinsider.es/ley-rider-obliga-empresas-informar-algoritmos-863563>

FEATURES AND TRENDS

As for statistical data related to the platform economy, trade union data is different from national data for two main reasons. First, most of the information comes from the platforms themselves, with an obvious bias to justify their labour and economic model. Second, national official data are not based on reliable statistics, as highlighted by the Bank of Spain report¹¹. The absence of official data has prevented unions from knowing how many platforms there were in Spain.

On the other hand, data provided by the Labour Inspectorate and the number of registrations is considered more reliable, as it provides an accurate picture (see Section 4 for more detailed information about the work carried out by this public body).

Reliable EU sources of data are also available, such as the EU Joint Research Centre study “New evidence on platform workers in Europe” which analyse the results from the COLLEM survey “Platform Workers in Europe Evidence from the COLLEEM Survey”¹². The study highlights the number of people over 16 years of age working through platforms. In the case of Spain, these percentages reached 12.2% in 2017 and 18.5% in 2018. However, if we exclude sporadic workers, the figures drop to 9.9% in 2017 and 14% in 2018, placing Spain among the countries with the highest percentages of platform workers. The latter figure align well with the data and experiences of Spanish unions.

¹¹ Bank of Spain, [The challenge of labour mediation in digital platforms](#).

¹² [JRC Publications Repository - New evidence on platform workers in Europe \(europa.eu\)](#)

POLICY, LEGAL AND CASE LAW DEVELOPMENTS

Legal developments

Royal Decree-Law 9/2021 dated May 11 modified the Workers' Statute Law, approved by Legislative Royal Decree 2/2015 dated October 23, guaranteeing labour rights to delivery platforms workers. All companies had a time limit up to 12 August 2021 to regulate the situation of their workers. Later, in compliance with the Spanish legislative procedures, the quoted Royal Decree-Law was confirmed by the Parliament with the Law 12/2021 of September 28 (the so-called "Rider Law"). The Rider Law modified the Workers' Statute Law recognising as employees the digital platforms' delivery riders.

First, the Rider Law introduced a new article d) in article 64.4 of the Workers' Statute Law, with the following wording: "*(d) Be informed by the company of the parameters, rules and instructions on which algorithms or artificial intelligence systems are based that affect decision-making that may have an impact on working conditions, access to and maintenance of employment, including profiling.*". This provision gives workers' councils the right to be informed of the "parameters, rules and instructions" that determine the work of the algorithm (Article 64.4, d).

Second, the Rider Law introduced an additional provision, a presumption of employment in the field of digital delivery platforms, with the following wording: "*By application of the provisions of Article 8.1, the activity of persons who provide paid services consisting of the delivery or distribution of any consumer product or merchandise, by employers who exercise business powers of organisation, management and control directly, indirectly or implicitly, by means of algorithmic management of the service or working conditions, through a digital platform, is presumed to be included within the scope of this law. This presumption does not affect the provisions of Article 1.3 of this regulation.*".

The Rider Law is remarkable for its purpose of preventing precarious work, of improving transparency about platform's decision-making through artificial intelligence, of including workers as employees in the service of platforms as well as in the scope of the Strategic Plan of Social Security¹³ and in the Labour Inspectorate's administrative control.

¹³ The Strategic Plan of Security Social and Labour Inspection to 2021, 2022 and 2023 "has established (action 1.9. Digital platforms and telework) campaigns aimed at guaranteeing labour rights and proper social security coverage for workers who provide services for companies operating on digital platforms in any type of activity (e-commerce, home food delivery, service provision, etc.)". The Plan is not legally binding but rather is an administrative action. The impact is unknown to date.

Case law developments

Judicial pronouncements about delivery platform workers have been very divided, although the balance of opinion has tended to be in favour of labour law enforcement.

Thus a large number of rulings shall be quoted in favour of the consideration of the employment status of the platform workers¹⁴. What's relevant here is that "most of the rulings on whether or not the employment relationship on the platform is an employment relationship are made when resolving the objection of lack of jurisdiction raised by the company, arguing that the relationship is not an employment relationship, as a prior element to be resolved before deciding whether there has been dismissal, an accident at work, or the resolution of any other right protected by employment legislation.

In many cases, the judicial resolution had been initiated through an inspection action and, in other cases, the report of the Labour and Social Security Inspectorate, due to its precision and factual richness, has been decisive, either in one sense or the other."¹⁵ The most important ruling in this framework is probably Judgment of the Plenary of the Chamber of the High Court of Justice of Madrid, Social Division, no. 1155/2019, of 27 November, appeal no. 588/2019, where the existence or not of an employment relationship of a Glovo delivery driver was clarified as a prior element to determine whether or not there is dismissal by the platform when terminating the relationship with them.

On the contrary, several Courts¹⁶ ruled against the consideration of the employment status of platform workers. The criteria determining the Court's position rejecting the employment nature of the relationship are as follows: No working hours, no disciplinary regime, expenses on the delivery driver's account, payment for orders, even if the price is set by the company. In their arguments, Courts only describe the aspects that, in their opinion, indicate the non-existence of an employment relationship. The courts that opt for this option usually weigh up the different types of elements that concur in the reality found. In doing this, they clearly highlight the elements that could indicate that we are dealing with a commercial relationship rather than an employment one.¹⁷

The situation was resolved in the Glovo case by the Social Division of the Spanish Supreme Court, which declared the relationship of a rider employed

¹⁴ Ruling number 244/2018 of the Social Court number six of Valencia, case number 633/17. Ruling number 53/2019 of the Social Court number 33 of Madrid of 11 February 2019, the terms of which, literally reproduced, are taken from Rulings number 128/2019, 130/2019 and 134/2019, of the Social Court number 1 of Madrid, case numbers 944, 946/2018 and 947/2018, respectively, of 3 and 4 and 4 April 2019. Judgement 61/2019 of the Court de lo social n. 1 de lo de Gijon of 20 February 2019, Autos: 724/2018. Judgement number 193/2019 of the Court de lo Social number 31 of Barcelona, of 11 June 2019. Judgement 1818/2019 of the Tribunal Superior de Justice de Asturias, Sala de lo Social, of 25 July 2019 (Appeal No.: 1143/2019). Judgment of the High Court of Justice of Madrid, Social Division, no. 40/2020, of 17 January 2020, appeal for review number 1323/2019. Judgment of the High Court of Justice of Catalonia of 21 February 2020, appeal number 5613/2019.

¹⁵ Perez Capitan Luis, supra.

¹⁶ Judgment number 205/2019, of 29 May 2019, of the 24th Social Court of Barcelona. Judgement of the Tribunal Superior de Justice de Cantabria, Sala de lo Social, Judgement 316/2019, 26 April 2019. Ruling 284/2018 of the 39th Social Court of Madrid, 18 September 2018. Judgment of the High Court of Justice of Madrid, Social Chamber, of 19 September 2019 (Autos 1353/2017).

¹⁷ Perez Capitan Luis, supra.

by delivery platform to be an employment relationship (ruling 805/2020, 25 September 2020). The Supreme Court considered that “we are dealing with a fiction constructed through a commercial contract(...) in which all the formal elements of a self-employment (registration in the Special Regime for Self-Employed Workers, tax licence, etc.), with the worker contributing a series of elements of little importance with respect to the business organisation, articulating a pseudo-freedom regime designed to sustain a set-up that is typical of crude legal engineering.”¹⁸. These are the main arguments¹⁹ used by the Supreme Court:

- The contract has its own nature and not that which has been attributed to it by the parties;
- The presumption of employment as set out in art. 8 ET is applicable;
- Delivery riders are subject to a permanent monitoring system (GPS) while providing the service, which delimits the way and time in which they must provide their service;
- The essential infrastructure for this activity is the software (platform) developed by the company (Glovo) that connects retailers with end customers. This platform is an essential mean of production for the provision of the service. Delivery riders’ mobile phone and motorcycle, on the contrary, are not essential elements.
- The rider had no involvement in the agreements made between Glovo and the retailers, nor in the relationship between Glovo and the customers. They merely provided the service under the conditions imposed by Glovo.

Labour Inspectorate

Between August 2018 and October 2019, the Labour Inspectorate carried out a specific campaign as part of the Master Plan for decent work in digital platforms and e-commerce. This action led to the regularisation of 8,451 falsely self-employed workers and the Social Security recovered 15 million euros in Social Security contributions that these companies were saving (see the next Section for more information about the labour inspectorate actions).

¹⁸ <https://servicioestudiosugt.com/comentario-sts-805-2020-caso-riders-final-necesario/>

¹⁹ <https://servicioestudiosugt.com/comentario-sts-805-2020-caso-riders-final-necesario/>

SOCIAL PARTNERS' ACTIVITIES AND GRASSROOTS CAMPAIGNS

First mobilisations

Between the end of June and July 2017²⁰, the first mobilizations related to platform work began in Barcelona, then spread to Madrid and Valencia. This was sparked by the unilateral change Deliveroo's working conditions, which modified the form of payment and the organization of the work. In particular, a shift from hourly payment to piecework payment based on the number of deliveries was imposed, from 8.5 euros per hour for bike deliveries and 9 euros per hour for motorbike deliveries to 4.25 euros per order for bike and 4.5 euros for motorbikes. In addition, a scoring system was introduced for the allocation of shifts, imposing a new way of organizing work that forced competition between riders to obtain delivery slots in order to maintain income.

Deliveroo offered all these changes as a new contract for an economically dependent worker, known in Spanish law as TRADE. In this way, the company wanted to maintain a semblance of legality. To ensure that people would sign the new contract, Deliveroo introduced a bonus for objectives that was very easy to achieve, inserting the signature of the TRADE contract as a parameter in the scoring system. In January 2018, the order bonus disappeared.

This was the origin of the "Riders for Rights" (RXD) movement, supported by anarchist-oriented unions such as the CNT and pro-independence unions such as the IAC in Barcelona. The company acted against the main leaders and fired them during the mobilizations. Despite the great media resonance, the delivery activities did not come to a complete halt as motorbike drivers did not join these mobilizations.

The main trade unions reacted by creating digital tools to reach out to these new workers. UGT created "TU RESPUESTA SINDICAL YA!", a website intended to be the first trade union section to deal with queries from workers on digital platforms²¹. CCOO created the website "Precarity War" aimed at fighting the different precariousness of the world of work in Spain. The UGT website was

²⁰ https://www.eldiario.es/catalunya/trabajo/repartidores-deliveroo-convocan-primera-economia_1_3306408.html

²¹ Martín Hermoso, DON'T GIG UP! Spain Case Study Report, Case 3.

intended to reach out to platform workers and, in fact, combined the attention on the website with the presence in the meeting places of the delivery workers.

UGT filed a national complaint to the Spanish Labour Inspectorate for false self-employment against Glovo, Deliveroo, Stuart and Uber Eats companies in December 2017²². This triggered several interventions by the Labour Inspectorate and subsequent legal proceedings in each province that affected more than 18,000 people²³ declared as false self-employed between December 2017 and January 2021.

In the meantime spontaneous mobilisations by riders arose when platforms updated order prices. All these changes were aimed at reducing the economic value of the work and to eliminate the possible indications of employment that Social Courts were already starting to establish in early rulings. A clear example was the spontaneous riders' mobilisation following the unilateral amendments to terms of service in Glovo's app in September 2018²⁴. Riders gathered in the main squares and generated two-hour stoppages, usually taking advantage of peak times. Glovo's behaviour was remarkably similar to that of Deliveroo in 2017, spotting the leaders of the demonstrations and disconnecting them just before the start of the rallies. This was the first case that the UGT union won in court against Glovo, which had proceeded the dismissal of a delivery driver accused of inciting an "illegal strike". The ruling was the first to establish an employment relationship between a delivery rider and a platform²⁵. As a consequence, the company had to reinstate the delivery driver for violating the fundamental right to strike. Deliveroo, on 28 March 2019, when the legal proceedings were already known due to the action of the Labour Inspectorate, signed a Professional Interest Agreement (PIA) with Asoriders²⁶.

To continue analysing the main labour mobilizations, it is necessary to take into account how the migrant population became the main human resource for digital delivery platforms. In Spain, migrants without legal permits to work found employment on platforms by 'renting' a profile from a person with the right to work in Spain. The account holder and the actual deliverer would then split the remuneration, the latter receiving a percentage of 50-75%. This mar-

22 "The work on digital delivery platforms" UGT report <https://servicioestudiosugt.com/work-in-delivery-digital-platforms/>

23 https://www.eldiario.es/economia/seis-anos-18-000-despues-falsos-autonomos-detectados-50-condenas-llega-ley-rider_1_7919015.html

24 <https://www.elperiodico.com/es/economia/20180911/trabajadores-glovo-zaragoza-colapsan-app-protesta-laboral-7028233>

25 <https://www.ugt.es/ugt-consigue-la-primera-sentencia-que-reconoce-la-relacion-laboral-entre-glovo-y-sus-repartidores>

26 https://cincodias.elpais.com/cincodias/2019/10/28/companias/1572265374_528680.html; Under Spanish law, the TRADE contract allows collective bargaining between members of an association of self-employed and a company. Self-employed who have a 75% activity with a single company have the right to establish agreements (similar to collective agreements) where certain rights that are not developed for self-employed workers, such as the time and moment to take holidays, can be included. This type of self-employment is known as TRADE. It was very important for Deliveroo to develop this agreement in view of the "macro trial" where 532 delivery riders were declared false self-employed by the Labour Inspectorate, as the company needed legal arguments to justify to the judge that their model complied with all aspects of the law on self-employment. In this framework, Deliveroo promoted the creation of Asoriders with the clear aim of obtaining an agreement whose content would legitimise its employment model.

ketplace, based on fraud and exploitation of people, was exaggerated in the case of Uber Eats, where fleets of undocumented workers depended on a single account holder, who then distributed the remunerations according to agreed percentages²⁷. Undoubtedly, this system was an obstacle to the organization of workers, scared of legal insecurity.

One of the trade union initiatives to regulate this labour market was to include the activities of platform delivery in sectoral collective bargaining. The State Agreement on Catering²⁸ included for the first time the category of food and drink delivery workers using digital platforms. UGT and CCOO and the hotel and catering employers' association reached an agreement on the incorporation of these workers in order to avoid possible unfair competition from digital platforms that were introducing the first dark kitchens.

The Rider Law and the labour platforms' companies

On 1 June 2020, the Minister of Labour Yolanda Díaz announced a future law to regulate bogus self-employed workers on digital platforms²⁹ as part of the negotiations with the main trade unions and employers. This announcement upset the main platforms, which changed their communication policy: it would no longer be the managers of the companies who would convey their messages about the labour model of the platforms, but rather the delivery companies' associations who would defend the self-employment system.

The first example of this was the signing of the Sectoral Agreement on Good Practices³⁰. In this text, companies exonerate themselves from any responsibility in the "fraud of rented accounts" and direct all the burden to the account holders sharing their accounts without companies' authorization. It should be noted that companies had benefited from the rented accounts, as it provided them with cheap labour.

On 25 September 2020, the Supreme Court's ruling in the Glovo case provoked Glovo's mobilisation of its related associations to demonstrate against the future Rider Law, against the trade unions and against the Minister of Labour. This was realised in a videoconference with 940 people, where Glovo announced that the work of thousands of people was at risk if the new law had been passed. The associations took the platforms' and promoted mobilizations in front of the Ministry of Labour. They called on the riders, including those on rented accounts, to come to the demonstrations because "otherwise they will lose their jobs" and this would mean the end of work opportunities for vulnerable migrants.³¹

27 UGT study entitled: "With this model there will be no future, report on labour exploitation in digital delivery platforms" https://www.ugt.es/sites/default/files/informe_no_habra_futuro_para_impresion.pdf

28 Martín Hermoso, DON'T GIG UP! Spain Case Study Report, Case 2.

29 https://www.eldiario.es/economia/yolanda-diaz-plataformas-glovo-deliveroo_1_6033677.html

30 <https://www.expansion.com/empresas/2020/07/08/5f05fb33e5fdea8c558b4641.html>

31 UGT report: "Analysis of the political and social pressure of the delivery platforms".

With the approval of the Rider Law, which came into force on 13 August 2021 after providing three months for companies to adapt to the new provisions, the process of “labourisation” of all riders began³². The importance of this agreement lies in the fact that it closed the debate between self-employed and salaried workers and reinforced riders’ labour protections with the main objective of avoiding unfair competition between companies that, as in the case of the transport sector, were being affected by the fall in prices.

As a consequence of the approval of the Rider Law, companies such as Glovo, Deliveroo and Uber Eats left the CEOE³³ and created their own employers’ association (Association of On-Demand Service Platforms) as they considered that the CEOE had not defended their interests and had given in to pressure from companies in the transport sector.

Before the entry into force of the Rider Law, Glovo announced its latest modification of its app³⁴ in which it claimed to comply with the Supreme Court ruling, and imposed a new system in which orders are auctioned with new changes: the delivery riders will have to set the percentage for which he or she is willing to work (from 30% more than the initial value to 30% less than the initial value); free connection is imposed; time slots disappeared. These new elements lead to even more precarious competition and provoked renewed mobilization.

Uber Eats dismissed 3,814 people stating that they could no longer work as freelancers because of the Rider Law, just one day before its entry into force. This was jointly denounced by UGT and CCOO for not complying with the collective dismissal process. The National High Court did not accept the trade union’s arguments and an appeal was lodged with the Supreme Court. In addition, Uber Eats, in order to adapt to the Rider Law, subcontracted the delivery activity to a series of companies that took on the contracting of almost 1,000 people. In this way, the organisation of the work continued to be carried out with the same Uber app.

Deliveroo, before the approval of the entry into force of the rider law, announced its departure from Spain and had to comply with the collective dismissal process³⁵ in which more than 3,000 people received compensation. When the employment relationship was recognised, all the riders were registered with the Social Security as salaried workers and were not left without social protection. .

32 <https://www.europapress.es/economia/macroeconomia-00338/noticia-congreso-aprueba-ape-nas-mes-ley-rider-envia-senado-cambios-20210721201152.html>

33 https://www.eldiario.es/economia/glovo-marcha-ceoe-pactar-ley-rider-forma-asociacion-em-presas-sancionadas-falsos-autonomos_1_7873510.html

34 https://cincodias.elpais.com/cincodias/2021/08/08/companias/1628430877_329895.html

35 <https://www.larazon.es/economia/20211117/iq6sx6n6hzdoplimzkjr2s7zm.html>

Latest collective agreements

The Just Eat case was different from the rest of the digital platforms in Spain. From the outset, it opted for an employment relationship, although it was not applying the appropriate sectoral collective bargaining agreement for its activity and the delivery was carried out by intermediary companies. In addition, Just Eat distanced itself from the rest of the platforms and declared itself in favour of labour regulation³⁶. Therefore, in order to avoid future labour conflicts, negotiations began to establish a collective agreement that would allow the integration of the riders within the company, eliminating the subcontracting companies. Despite tough negotiations, trade unions managed to adapt the delivery activity to on-demand work within the current labour regulations³⁷. The following sections of the agreement deserve to be recalled:

- The telephone number is provided by the company and, therefore, the geolocation complies with the regulations, respecting the data generated by the rider.
- Riders' profiles are eliminated, putting an end to ranking.
- An Algorithmic Commission is created between two members of the company and two members of the Workers' Legal Representation to provide understandable information on algorithmic management. The company will report all the Artificial Intelligence impact around each worker.
- An hourly wage of 8.5 euros was established, and riders are guaranteed a minimum number of monthly working hours, partially eliminating precariousness.

This Labour Agreement will be ratified by the new Legal Workers' Representatives to be elected in 2022.

Moreover, the first union elections were held in a platform company in the SuperGlovo Groceries (the black shops of one of Glovo's companies in Barcelona). CCOO and UGT won the first delegates in a platform company³⁸. Despite Glovo's fight to maintain the self-employment status, after the approval of the Rider Law, it had to incorporate more than 1,000 riders throughout Spain and recognise the employment relationship, as the signs of subordination and dependence were very clear: orders were delivered from Glovo's "dark stores", therefore, there was no longer the apparent intermediation between a delivery rider and a restaurant. The mobilisations of September 2021 in Barcelona showed the invisible work of many workers who were contracted in a temporary employment agency with exhausting working hours³⁹.

36 https://cincodias.elpais.com/cincodias/2021/03/11/companias/1615467973_560343.html

37 https://www.eldiario.es/economia/just-eat-firma-sindicatos-primer-acuerdo-condiciones-lab-ales-riders-espana_1_8588530.html

38 https://www.eldiario.es/catalunya/ccoo-impone-primeras-elecciones-sindicales-glo-vo_1_8989339.html

39 <https://elpais.com/espana/catalunya/2021-09-11/la-huelga-de-glovo-marca-un-hito-en-las-protestas-de-la-nueva-economia.html>

Focus on sectors other than delivery riders

Trade union activity has not only focused on riders, but also on other labour platforms using similar ways of organising work.

UGT denounced to the Labour Inspectorate six platforms that, in addition to being placement agencies, established themselves as intermediaries between carers of elderly people and families in need of home help services. These platforms have grown in Spain due to the COVID-19 pandemic as an alternative to Elderly Homes. These platforms receive a commission for the service of selecting the caregiver. In addition, they establish the shifts, substitute the carer in case she is not to the family's liking and adapt the service according to the needs of the person they have to look after. They also set up a star rating system for carers that can limit future jobs due to poor ratings. These platforms use the Special Scheme for Domestic Workers which has a different system to the General Social Security Scheme (RGSS), i.e. their salary is fixed by the Minimum Interprofessional Wage (SMI) and they do not contribute in the same percentages or amounts as salaried workers. They belong to the Special System for Household Employees (SSHE). Moreover, the contractual relationship is made between the worker and the family, which bears social costs. This way platforms, despite being in charge of supervising and organising the care activity, are considered as mere intermediaries and do not have direct responsibilities such as complying with the Occupational Risk Prevention regulations⁴⁰

Cleaning platforms, such as Clintú, were also denounced to the Labour Inspectorate by trade unions. Their model also relied on domestic workers working on an hourly basis where the client could set a price below the price suggested by the platform. The prices varied if there were cleaning products in the home or not. The platform kept a fee for carrying out the intermediation activity. In addition, cleaners were given a star rating system that could limit future tasks if they received a poor rating.

The domestic and care sector is dependent on female labour, performing invisible work of great social importance but not sufficiently recognised and economically rewarded. A very high percentage of migrant women are active on those labour platforms. These elements, together with the great dispersion and invisibility of domestic workers, make it difficult to establish trade union structures.

In conclusion, the experience of Spanish trade union activity focused on detecting people working on the margins of the employment relationship and on denouncing the biggest abuses perpetrated by companies that have sought maximum profit at minimum cost, shifting social and tax to digital platform workers.

These actions supported the achievement of the Rider Law 12/2021, which served as an example for the European Commission's Proposal for a European Directive to improve the working conditions of people who work through digital platforms, both in terms of the presumption of employment of people who work on platforms and in terms of access to and transparency of algorithmic management.

⁴⁰ According to Spanish law, company shall provide the necessary mechanical tools to lift the elderly who require care.

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