

NEW FORMS OF WORK AND PLATFORM WORK

Case study: Spain

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Classification of platform workers

Spain became the first EU country to introduce targeted legal changes that oblige online platforms to recognise delivery workers as employees, paving the way for better social protection of this group of platform workforce and granting them labour rights. The so-called “Riders’ Law” (adopted in 2021) introduced a **rebuttable presumption of employment** for delivery couriers working through online platforms.¹ In essence, the rebuttable presumption of employment means that the platform (and not the worker) becomes responsible for proving that there is no employment relationship between the platform and the worker. Unless proven otherwise, delivery couriers working through online platforms are considered to be employees with all the pertaining rights.²

The main legal changes were brought about by amending the Workers’ Statute. The rebuttable presumption of employment for delivery couriers was introduced by Additional Provision 23. The change was made on the basis of the existing legal norm – Article 8.1. of the Workers’ Statute – that stipulated a rebuttable presumption of employment relationship for dependent workers. According to Article 8.1., an employment relationship is “presumed to exist between anyone who provides a service on behalf of and within the scope of organisation and management of another and anyone who receives it in exchange for remuneration to the former”.³

Additional Provision 23. Presumption of employment in the field of digital delivery platforms.

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 the entrepreneurial 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.

Source: Real Decreto Legislativo 2/2015, de 23 de octubre (Royal Decree Law 2/2015, of 23 October)

Furthermore, the Spanish “Riders’ Law” was the first to include provisions on **algorithmic transparency** for online labour platforms. Delivery platform workers gained the right to access information about the algorithms used by the platform that affect their working conditions and access to employment. Article 64 of the Worker’s Statute stipulates that the platforms should provide information about **the parameters, rules and instructions behind the algorithms to the Work Councils**, which are the main workplace representatives of employees in Spain.⁴

¹ Real Decreto Legislativo 2/2015, de 23 de octubre (Royal Decree Law 2/2015, of 23 October). Available [here](#).

² Such an approach was later adopted in the EU Platform Workers Directive. To learn more about the Directive see [here](#).

³ Real Decreto Legislativo 2/2015, de 23 de octubre (Royal Decree Law 2/2015, of 23 October). Available [here](#).

⁴ EU-OSHA (n.d.) Policy case study. Spain: The Riders’ Law, new regulation on platform work. Available [here](#).

Article 64. Rights of information and consultation and powers.

4. Works Council, with the appropriate frequency in each case, will have the right to ...
- d) Be informed by the company of the parameters, rules and instructions on which the algorithms or artificial intelligence systems are based that affect decision-making that may affect working conditions, access to and maintenance of employment, including profiling.

Source: Real Decreto Legislativo 2/2015, de 23 de octubre (Royal Decree Law 2/2015, of 23 October)

The impetus for these regulatory changes came from the Spanish Supreme Court's ruling in 2020 to classify Glovo's delivery couriers as employees. The decision concluded that an employment relationship existed based on characteristics such as managerial control through algorithmic management (e.g. GPS tracking, ratings), ownership of information for managing the service, price and payment control, and the fact that an "essential asset" for the activity is the mobile application owned by the company rather than workers' mobile phones or motorcycles.⁵

Soon after the decision, a tripartite social dialogue was launched. The dialogue between two employers' associations (CEOE and CEPYME), two major trade unions (CCOO and UGT) and the Spanish government (represented by the Ministry of Labour and Social Economy) resulted in an agreement that led to the adoption of the Riders' Law in May 2021.⁶

Platforms criticised the Riders' Law, claiming that it opposes their riders' preferences for flexibility and independent work and that the obligation to reveal information about algorithms infringes on the freedom of business.⁷ One of the largest platforms Glovo strongly opposed the law and made minor changes to the functioning of the app, such as introducing the possibility to refuse orders and offering more flexibility in working time organisation, and refused to classify its couriers as employees.⁸ Deliveroo, another popular delivery platform in Spain, exited the Spanish market in November 2021. According to the representatives, the Riders' Law was not the main reason for the exit, but it contributed to the decision to withdraw earlier.⁹

Some workers also did not welcome the changes. For instance, the Asociación Autónoma de Riders and several similar associations opposed the presumption of employment, fearing that the new regulation would put workers at risk of becoming unemployed.¹⁰

The Spanish trade unions welcomed the new law and suggested expanding it to cover platform workers in other sectors. The proponents of extending the scope of the regulation argued that false self-employment is a much wider problem that goes beyond the delivery sector.¹¹

Among the large players in the delivery sector, the platform Just Eat supported the law. In December 2021, a **collective agreement** between the food delivery platform Just Eat and the trade unions CCOO and UGT was concluded. This sectoral agreement was the first of its kind in Spain and set out

⁵ The text of the decision is available [here](#) (in Spanish). IOE (2020). Spain: Supreme Court decision on the employment status of workers for a delivery company and social dialogue process on a "Riders Law". Available [here](#); Kerikmä, T., & Kajander, A. (2022). Gig economy workers in the European Union: towards changing their legal classification. Revista CIDOB d'Afers Internacionals, (131), 117-136. Available [here](#).

⁶ Global Deal (n.d.). Collective bargaining in the platform economy: The impact of Spain's "Riders' Law". Available [here](#); EU-OSHA (n.d.) Policy case study. Spain: The Riders' Law, new regulation on platform work. Available [here](#).

⁷ EU-OSHA (n.d.) Policy case study. Spain: The Riders' Law, new regulation on platform work. Available [here](#).

⁸ EU-OSHA (n.d.) Policy case study. Spain: The Riders' Law, new regulation on platform work. Available [here](#).

⁹ The Guardian (2021). Deliveroo unveils plans to pull out of Spain in wake of 'rider law'. Available [here](#).

¹⁰ See the open letter sent by the Association to the EU Commissioner Schmit [here](#).

¹¹ EU-OSHA (n.d.) Policy case study. Spain: The Riders' Law, new regulation on platform work. Available [here](#).

working conditions such as working hours, wages, annual leave, the right to disconnect, provision of mobile phones and all other equipment necessary to perform the job (such as vehicle and food box), and occupational health and safety measures (such as maximum loads, training, and health surveillance).¹²

The implementation of the law is supported through the active involvement of the Labour Inspectorate and courts. Even before the adoption of the law, around 30,000 couriers working on Uber Eats, Glovo, Amazon and Deliveroo were reclassified as employees by the Labour Inspectorate in 2019 and 2020; nonetheless, many of them continued working as self-employed.¹³ Since the adoption of the law, there have been several cases where the regional Labour Inspectorate has reclassified workers of certain platforms. For example, in March 2023, the Labour Inspectorate of Andalusia reclassified 3,000 Glovo couriers as employees.¹⁴ In June 2023, a court decision in Barcelona recognised the employment relationship between house cleaners and a local platform Clintu Online. The Court has mandated Clintu Online to pay overdue Social Security contributions amounting to EUR 1.29 million.¹⁵ In February 2023, a court in Madrid ruled that more than 2,000 Amazon Flex couriers were falsely classified as self-employed.¹⁶

Social protection for platform workers

Under the Riders' Law, delivery couriers on those online platforms that did not disprove the presumption of employment in relation to their workers were **classified as employees** and received a **full range of social and labour protections**. In addition to basic social protection rights that are available for both employed and self-employed workers, the employment status grants sick leave, paid holiday, collective bargaining rights and labour protection.

Some platforms started offering better working conditions proactively. The Spanish Glovo, for instance, introduced the social benefits programme "Couriers Pledge" in 2021, created in collaboration with Fairwork Foundation and other key organisations.¹⁷ The programme sets earnings standards, skills development opportunities, and health and safety protection. However, the improvement in working conditions is not necessarily felt by couriers who work through third-party agencies (so-called fleet partners), as it remains at the discretion of these companies.¹⁸

All other types of platform workers that are not covered by the Riders' Law, such as cleaners, ride-hailing drivers, online freelancers, and the like, are covered by the general social security scheme for self-employed. The Spanish law defines self-employed as "natural persons who habitually, personally, directly, on their own account and outside the scope of the direction and organisation of another person carry out an economic or professional activity for a lucrative purpose".¹⁹ Self-employed workers (called *autónomo*) enjoy general social protection, which includes health insurance coverage, occupational accident insurance, maternity and paternity leave, pension, and even unemployment benefit (introduced in 2019), the amount of which depends on the level of previous contributions made

¹² Global Deal (n.d.). Collective bargaining in the platform economy: The impact of Spain's "Riders' Law". Available [here](#); Digital Platform Observatory (n.d.). Collective Agreement Just Eat. Available [here](#).

¹³ EU-OSHA (n.d.) Policy case study. Spain: The Riders' Law, new regulation on platform work. Available [here](#).

¹⁴ Global Deal (n.d.). Collective bargaining in the platform economy: The impact of Spain's "Riders' Law". Available [here](#); EU-OSHA (n.d.) Policy case study. Spain: The Riders' Law, new regulation on platform work. Available [here](#).

¹⁵ Eurofound (n.d.). Platform economy database. The Social Court in Barcelona, Spain, rules Clintu Online and the workers are in an employment relationship. Available [here](#); Global Deal (n.d.). Collective bargaining in the platform economy: The impact of Spain's "Riders' Law". Available [here](#); EU-OSHA (n.d.) Policy case study. Spain: The Riders' Law, new regulation on platform work. Available [here](#).

¹⁶ Global Deal (n.d.). Collective bargaining in the platform economy: The impact of Spain's "Riders' Law". Available [here](#).

¹⁷ For an overview of the Couriers Pledge see [here](#).

¹⁸ Eurofound (n.d.). Platform economy database. Glovo's pledge to couriers. Available [here](#).

¹⁹ The Self-employed Workers' Statute (*Ley del Estatuto del Trabajador Autónomo*).

by the self-employed persons themselves.²⁰ To be eligible for these benefits, the self-employed have to be registered in the Spanish Social Security System and pay social contributions. When it comes to taxes, platform workers fall under the tax legislation in accordance with their status as self-employed or as employees.

Since 2018, Spain has been actively tackling **false self-employment** following its Labour and Social Security Inspection Strategic Plan 2018-2020 by creating a special operative procedure, training inspectors, and launching regional pilot initiatives.²¹ Furthermore, to delineate between self-employment, false self-employment, and employment, the Spanish law defines a special category of **economically dependent self-employed workers**. They are defined as “those who carry out an economic or professional activity in a lucrative and usual manner, personal, direct and predominant for a natural or legal person, referred to as a client, on whom he or she is economically dependent for receiving at least 75% of his income from income from work and economic or professional activities”.²²

In contrast to self-employed, this category of workers has collective bargaining rights; however, this legal status is not widely used in Spain and the bargaining rights are not utilised in practice. In 2020, those registered as **economically dependent self-employed workers (abbreviated as TRADEs) constituted only 0.33% of all self-employed workers**. In reality, many more dependent self-employed workers are found in the country. In 2019, it was estimated that over 1 million workers in Spain are economically dependent on a single client, but do not register as TRADEs. The lack of additional labour protection and the fear of losing the main client in case of exercising collective bargaining rights is the main reason behind the reluctance to register as TRADEs, as no significant incentives are offered. For example, there is no minimum wage or special health protection that would be available to this category of workers, which puts the usefulness of this category in question.²³

²⁰ DG EMPL (2020). Peer Review on “Platform Work” - Peer Country Comments Paper: Spain (2020). Available [here](#).

²¹ [The Strategic Plan is available here.](#)

²² Law 20/2007, Of July 11, Of The Statute Of The Autonomous Work. Available [here](#).

²³ DG EMPL (2020). Peer Review on “Platform Work” - Peer Country Comments Paper: Spain (2020). Available [here](#).